

WEDNESDAY, MAY 15, 2002

EIGHTY-SEVENTH LEGISLATIVE DAY

The House met at 1:00 p.m. and was called to order by Mr. Speaker Naifeh.

The proceedings were opened with prayer by Tim Inklebarger, Bethel Baptist Church, Coryton, Tennessee.

Representative Goins led the House in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results:

Present.....98

Representatives present were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 98.

EXCUSED

The Speaker announced that the following member(s) has/have been excused, pursuant to request(s) under **Rule No. 20**:

Representative S. Jones; illness.

SPONSORS ADDED

Under **Rule No. 43**, the following members were permitted to add their names as sponsors as indicated below, the prime sponsor of each having agreed to such addition:

**House Joint Resolution No. 746:** Rep(s). Kisber and Naifeh as prime sponsor(s).

**House Joint Resolution No. 770:** Rep(s). Pleasant and Boyer as prime sponsor(s).

**House Joint Resolution No. 1039:** Rep(s). Fowlkes and White as prime sponsor(s).

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**House Joint Resolution No. 1048:** Rep(s). Ferguson as prime sponsor(s).

**House Joint Resolution No. 1069:** Rep(s). Bone and Caldwell as prime sponsor(s).

**House Joint Resolution No. 1075:** Rep(s). Naifeh, Armstrong and Tindell as prime sponsor(s).

**House Joint Resolution No. 1082:** Rep(s). Tidwell as prime sponsor(s).

**House Joint Resolution No. 1084:** Rep(s). White as prime sponsor(s).

**House Joint Resolution No. 1087:** Rep(s). Tidwell and White as prime sponsor(s).

**House Joint Resolution No. 1088:** Rep(s). White as prime sponsor(s).

**House Bill No. 2234:** Rep(s). Pinion, Todd, Garrett, Kent, Cole (Carter), Hagood, Towns, Pleasant and Cooper as prime sponsor(s).

**House Bill No. 2465:** Rep(s). Fraley as prime sponsor(s).

**House Bill No. 3003:** Rep(s). Hagood as prime sponsor(s).

**House Bill No. 3186:** Rep(s). Bowers as prime sponsor(s).

**SPONSORS REMOVED**

On motion, Rep(s). Briley was/were removed as sponsor(s) of **House Bill No. 2510**.

**ENROLLED BILLS**

**May 9, 2002**

The following bills have been compared, enrolled, and are ready for the signature(s) of the Speaker(s): House Bill(s) No(s). 532, 2869 and 3144.

BETTY KAY FRANCIS, Chief Engrassing Clerk.

**SIGNED**

**May 9, 2002**

The Speaker signed the following: House Bill(s) No(s). 532, 2869 and 3144.

BETTY KAY FRANCIS, Chief Engrassing Clerk.

**MESSAGE FROM THE SENATE**

**May 9, 2002**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 532, 2869 and 3144; signed by the Speaker.

RUSSELL A. HUMPHREY, Chief Clerk.

**REPORT OF CHIEF ENGROSSING CLERK**

**May 9, 2002**

The following bill(s) have been transmitted to the Governor for his action: House Bill(s) No(s). 532, 2869 and 3144.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**MESSAGE FROM THE SENATE**

**May 9, 2002**

MR. SPEAKER: I am directed to transmit to the House, Senate Bill(s) No(s). 2422, 2429, 2678, 2767; also, Senate Joint Resolution(s) No(s). 569, 584, 738, 740, 741, 742, 743, 744, 745, 747, 748 and 749 for the signature of the Speaker.

RUSSELL A. HUMPHREY, Chief Clerk.

**SIGNED**

**May 9, 2002**

The Speaker signed the following: Senate Bill(s) No(s). 2422, 2429, 2678, 2767; also, Senate Joint Resolution(s) No(s). 569, 584, 738, 740, 741, 742, 743, 744, 745, 747, 748 and 749.

**ENROLLED BILLS**

**May 9, 2002**

The following bills have been compared, enrolled, and are ready for the signature(s) of the Speaker(s): House Bill(s) No(s). 2969.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**SIGNED**

**May 9, 2002**

The Speaker signed the following: House Bill(s) No(s). 2969.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**MESSAGE FROM THE SENATE**

**May 9, 2002**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 2969; signed by the Speaker.

RUSSELL A. HUMPHREY, Chief Clerk.

**REPORT OF CHIEF ENGROSSING CLERK**

**May 10, 2002**

The following bill(s) have been transmitted to the Governor for his action: House Bill(s) No(s). 2969.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**MESSAGE FROM THE GOVERNOR**

**May 13, 2002**

MR. SPEAKER: I am directed by the Governor to return herewith: House Joint Resolution(s) No(s). 869, 872, 877, 879, 894, 913, 922, 925, 935 and 936, with his approval.

JAY BALLARD, Counsel to the Governor.

**MESSAGE FROM THE GOVERNOR**

**May 14, 2002**

MR. SPEAKER: I am directed by the Governor to return herewith: House Bill(s) No(s). 532, 2227, 2869, 2969, 3144, also, House Joint Resolution(s) No(s). 907; with his approval.

JAY BALLARD, Counsel to the Governor.

**MESSAGE FROM THE SENATE**

**May 15, 2002**

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806 and 807; all adopted for concurrence.

RUSSELL A. HUMPHREY, Chief Clerk.

**Senate Joint Resolution No. 750** -- Memorials, Personal Occasion - Joyce Carroll, 75th Birthday. by \*Trail.

**Senate Joint Resolution No. 751** -- Memorials, Recognition - Wilma Dykeman Stokely, State Historian. by \*Haun, \*Henry.

**WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY**

**Senate Joint Resolution No. 752** -- Memorials, Academic Achievement - Ross Edward Philpot, Valedictorian, Jackson County High School. by \*Burks.

**Senate Joint Resolution No. 753** -- Memorials, Academic Achievement - Sandra Jo Wilson, Salutatorian, Jackson County High School. by \*Burks.

**Senate Joint Resolution No. 754** -- Memorials, Academic Achievement - Rachel A. Jernigan, Valedictorian, Monterey High School. by \*Burks.

**Senate Joint Resolution No. 755** -- Memorials, Academic Achievement - Jason Lee Buckner, Salutatorian, Monterey High School. by \*Burks.

**Senate Joint Resolution No. 756** -- Memorials, Academic Achievement - Yamini Rao, Valedictorian, Cookeville High School. by \*Burks.

**Senate Joint Resolution No. 757** -- Memorials, Academic Achievement - Krishna Rao, Salutatorian, Cookeville High School. by \*Burks.

**Senate Joint Resolution No. 758** -- Memorials, Academic Achievement - Lora Lynn Palmer, Valedictorian, Upperman High School. by \*Burks.

**Senate Joint Resolution No. 759** -- Memorials, Academic Achievement - Kenneth Richard Herren, Salutatorian, Upperman High School. by \*Burks.

**Senate Joint Resolution No. 760** -- Memorials, Academic Achievement - Nathan Thomas Aaron, Valedictorian, Pickett County High School. by \*Burks, \*Davis L.

**Senate Joint Resolution No. 761** -- Memorials, Academic Achievement - John Michael Crouch, Salutatorian, Pickett County High School. by \*Burks, \*Davis L.

**Senate Joint Resolution No. 762** -- Memorials, Academic Achievement - Andrea Beth Robertson, Valedictorian, Coffee County Central High School. by \*Burks, \*Cooper J, \*Davis L.

**Senate Joint Resolution No. 763** -- Memorials, Academic Achievement - Emily Lynn Powers, Salutatorian, Coffee County Central High School. by \*Burks, \*Cooper J, \*Davis L.

**Senate Joint Resolution No. 764** -- Memorials, Public Service - Burrell Harris. by \*Burks.

**Senate Joint Resolution No. 765** -- Memorials, Interns - John Gregory Burlison. by \*Fowler.

**Senate Joint Resolution No. 766** -- Memorials, Interns - Katie Lanette Williams. by \*Wilder.

**Senate Joint Resolution No. 767** -- Memorials, Academic Achievement - Huan Y. Lin, Valedictorian, Frayser High School. by \*Kyle.

**Senate Joint Resolution No. 768** -- Memorials, Academic Achievement - Takela Jeanette Matthews, Salutatorian, Frayser High School. by \*Kyle.

**WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY**

**Senate Joint Resolution No. 769** -- Memorials, Academic Achievement - Lynzi Sutton, Salutatorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 770** -- Memorials, Academic Achievement - Susan L. Roach, Salutatorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 771** -- Memorials, Academic Achievement - Brittany Morgan Book, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 772** -- Memorials, Academic Achievement - Eleanor Morgan Petty, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 773** -- Memorials, Academic Achievement - Kelly Savannah Sutton, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 774** -- Memorials, Academic Achievement - Angela Ecabrina Quebec Munasque, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 775** -- Memorials, Academic Achievement - AnnMarie Bennett, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 776** -- Memorials, Academic Achievement - Angela Bryant, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 777** -- Memorials, Academic Achievement - Sarah Ellen Morton, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 778** -- Memorials, Academic Achievement - Xiao Xin Lu, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 779** -- Memorials, Academic Achievement - Charlotte Hayes, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 780** -- Memorials, Academic Achievement - Erica McCoy, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 781** -- Memorials, Academic Achievement - Elizabeth Hauser, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 782** -- Memorials, Academic Achievement - William Aarin McNabb, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 783** -- Memorials, Academic Achievement - Elizabeth Farren, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 784** -- Memorials, Academic Achievement - Nicholas Lambert, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 785** -- Memorials, Academic Achievement - Laura Jetter, Salutatorian, Alcoa High School. by \*Clabough.

**WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY**

**Senate Joint Resolution No. 786** -- Memorials, Academic Achievement - Jeremiah M. Stache, Valedictorian, Alcoa High School. by \*Clabough.

**Senate Joint Resolution No. 787** -- Memorials, Academic Achievement - Joshua "Logan" Dyer, Valedictorian, Gatlinburg-Pittman High School. by \*Clabough.

**Senate Joint Resolution No. 788** -- Memorials, Academic Achievement - Ana Alicia Landry, Salutatorian, Gatlinburg-Pittman High School. by \*Clabough.

**Senate Joint Resolution No. 789** -- Memorials, Academic Achievement - Trista Suzanne Self, Salutatorian, Gatlinburg-Pittman High School. by \*Clabough.

**Senate Joint Resolution No. 790** -- Memorials, Academic Achievement - Thomas O. McDermott, Salutatorian, Gatlinburg-Pittman High School. by \*Clabough.

**Senate Joint Resolution No. 791** -- Memorials, Academic Achievement - Brett M. Taylor, Salutatorian, Gatlinburg-Pittman High School. by \*Clabough.

**Senate Joint Resolution No. 792** -- Memorials, Academic Achievement - Barton Chandler Williams, Valedictorian, Gatlinburg-Pittman High School. by \*Clabough.

**Senate Joint Resolution No. 793** -- Memorials, Academic Achievement - Amber N. Noel, Valedictorian, Gatlinburg Pittman High School. by \*Clabough.

**Senate Joint Resolution No. 794** -- Memorials, Academic Achievement - Courtney Mason Lix, Salutatorian, Gatlinburg-Pittman High School. by \*Clabough.

**Senate Joint Resolution No. 795** -- Memorials, Academic Achievement - Jessica M. Davis, Salutatorian, Seymour High School. by \*Clabough.

**Senate Joint Resolution No. 796** -- Memorials, Academic Achievement - Kristi Hurst, Valedictorian, Seymour High School. by \*Clabough.

**Senate Joint Resolution No. 797** -- Memorials, Academic Achievement - Cherish Widner, Valedictorian, Seymour High School. by \*Clabough.

**Senate Joint Resolution No. 798** -- Memorials, Academic Achievement - Katherine Sue Hayes, Valedictorian, William Blount High School. by \*Clabough.

**Senate Joint Resolution No. 799** -- Memorials, Academic Achievement - Brandi Marie Stargel, Salutatorian, William Blount High School. by \*Clabough.

**Senate Joint Resolution No. 800** -- Memorials, Academic Achievement - Philip Trent Jones, Valedictorian, Maryville High School. by \*Clabough.

**Senate Joint Resolution No. 801** -- Memorials, Academic Achievement - Alan Barker, Valedictorian, Heritage High School. by \*Clabough.

**Senate Joint Resolution No. 802** -- Memorials, Academic Achievement - Steven Woolwine, Salutatorian, Heritage High School. by \*Clabough.

**WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY**

**Senate Joint Resolution No. 803** -- Memorials, Academic Achievement - Kara Lynn Farris, Co-Valedictorian, White County High School. by \*Burks.

**Senate Joint Resolution No. 804** -- Memorials, Academic Achievement - Anna Elizabeth Vaughn, Co-Valedictorian, White County High School. by \*Burks, \*Davis L.

**Senate Joint Resolution No. 805** -- Memorials, Recognition - Connie Barker. by \*Graves.

**Senate Joint Resolution No. 806** -- Memorials, Academic Achievement - Sabrina E. Doughty, Salutatorian, Maryville High School. by \*Clabough.

**Senate Joint Resolution No. 807** -- Memorials, Retirement - Betty Pippin Knight. by \*Henry.

**MESSAGE FROM THE SENATE  
May 15, 2002**

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 813; adopted for concurrence.

RUSSELL A. HUMPHREY, Chief Clerk.

**Senate Joint Resolution No. 813** -- Memorials, Death - Worrick Gale Robinson. by \*Atchley, \*Atchley, \*Blackburn, \*Burchett, \*Burks, \*Carter, \*Clabough, \*Cohen, \*Cooper J, \*Crowe, \*Crutchfield, \*Davis L, \*Dixon, \*Elsea, \*Ford J, \*Fowler, \*Graves, \*Harper, \*Haun, \*Haynes, \*Henry, \*Herron, \*Jackson, \*Kurita, \*Kyle, \*McNally, \*Miller J, \*Norris, \*Person, \*Ramsey, \*Rochelle, \*Trail, \*Wilder, \*Williams, Sen..

**PERSONAL ORDERS**

**RECOGNITION IN THE WELL**

Rep. Walker was recognized in the Well to introduce Mr. Eddy Arnold for remarks.

**RESOLUTION READ**

The Clerk read House Joint Resolution No. 884, honoring Mr. Arnold on his various achievements in the Country Music Recording Industry.

**House Joint Resolution No. 884** -- Memorials, Recognition - Eddy Arnold, Top Country Recording Artist of All Time. by \*Walker, \*Curtiss, \*Sargent, \*Harwell, \*McKee, \*McDaniel, \*Fowlkes, \*Turner (Hamilton).



### RECOGNITION IN THE WELL

Rep. Turner (Hamilton) was recognized in the Well to introduce the Brainerd High School Acapella Choir, who performed a selection for the Members.

### RULES SUSPENDED

Rep. Turner (Hamilton) moved that the rules be suspended for the purpose of introducing House Joint Resolution No. 1038 out of order, which motion prevailed.

**House Joint Resolution No. 1038** -- Memorials, Recognition - Brainerd High School Acapella Choir. by \*Turner (Hamilton).

On motion, the rules were suspended for the immediate consideration of the resolution.

On motion of Rep. Turner (Hamilton), the resolution was adopted.

A motion to reconsider was tabled.

### INTRODUCTION OF RESOLUTIONS

On motion, pursuant to **Rule No. 17**, the resolution(s) listed was/were introduced and referred to the appropriate Committee:

**House Joint Resolution No. 970** -- Naming and Designating - Names new Tennessee Fire Service and Codes Enforcement Academy in Bedford County in honor of Representative Clarence "Pete" Phillips. by \*Turner (Davidson).

House Finance, Ways and Means Committee

**\*House Joint Resolution No. 1037** -- General Assembly, Studies - Creates special joint committee to perform comprehensive analysis of municipal electric and rural electric cooperative pole attachment contracting practices and to recommend statutory changes to provide fair and equitable treatment. by \*Head.

House State and Local Government Committee

### RESOLUTIONS

Pursuant to **Rule No. 17**, the following resolution(s) was/were introduced and placed on the Consent Calendar for May 22, 2002:

**House Joint Resolution No. 1041** -- Memorials, Heroism - Robertson County Emergency Medical Service. by \*Davidson.

### INTRODUCTION OF BILLS

On motion, the following bills were introduced and passed first consideration:

**House Bill No. 3285** -- Jackson - Subject to local approval, compounds cost of living allowance by applying it to current retirement benefit instead of base retirement benefit for members of certain City of Jackson retirement plans. Amends Chapter 150 of the Private Acts of 1943, as amended. by \*Kisber, \*Shaw.

### HOUSE BILLS ON SECOND CONSIDERATION

On motion, bills listed below passed second consideration and were referred by the Speaker to Committee or held on the Clerk's desk as noted:

**House Bill No. 3282** -- Greenbrier -- Local Bill Held on House Desk

**House Bill No. 3283** -- Chapel Hill -- Local Bill Held on House Desk

**House Bill No. 3284** -- Humboldt -- Local Bill Held on House Desk

### REPORTS FROM STANDING COMMITTEES

The committees that met on **May 9, 2002**, reported the following:

#### COMMITTEE ON CALENDAR AND RULES

The Calendar and Rules Committee met and set the following bill(s) on the **Regular Calendar** for **May 15, 2002**: House Bill(s) No(s). 2465, 3186, 3176, 2546, 3003, 2429, 2234, 3148, 3043 and House Joint Resolution(s) No(s). 770.

The Committee also reports that House Bill No. 2957 was passed out of the Committee on Calendar and Rules and held on the Clerk's desk.

The Committee further reports that it set the following bill(s) and/or resolution(s) on the **Consent Calendar** for **May 15, 2002**: House Joint Resolution(s) No(s). 659, 862, 830 and 789.

### REPORTS FROM STANDING COMMITTEES

The committees that met on **May 14, 2002**, reported the following:

#### COMMITTEE ON CALENDAR AND RULES

The Calendar and Rules Committee met and set the following bill(s) on the **Regular Calendar** for **May 15, 2002**: House Bill(s) No(s). 1416, 2901, 2939, 2755, 1106, 2434, 2389 and 1404.

## **WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY**

The Committee set the following bill(s) and/or resolution(s) on the **Consent Calendar** for **May 15, 2002**: House Bill(s) No(s). 2551, 2738, 2727, 2725, 2717, 2750, 2710, 2761, 2733, 2721, 2718, House Joint Resolution(s) No(s). 836, 672 and Senate Joint Resolution(s) No(s). 504.

### **EDUCATION**

The Education Committee recommended for passage: House Bill(s) No(s). 2347. Under the rules, each was transmitted to the Calendar and Rules Committee.

### **FINANCE, WAYS AND MEANS**

The Finance, Ways and Means Committee recommended for passage: House Bill(s) No(s). 3151, 2650, 2840, 3232, 2450, Senate Joint Resolution(s) No(s). 623, also House Bill(s) No(s). 2105, 247 and 2942 with amendments. Under the rules, each was transmitted to the Calendar and Rules Committee.

### **REPORTS FROM STANDING COMMITTEES**

The committees that met on **May 15, 2002**, reported the following:

#### **COMMITTEE ON CALENDAR AND RULES**

The Calendar and Rules Committee met and set the following bill(s) on the **Regular Calendar No. 2** for **May 15, 2002**: House Bill(s) No(s). 2942.

#### **JUDICIARY**

The Judiciary Committee recommended for passage: House Joint Resolution(s) No(s). 960, also House Bill(s) No(s). 1139 with amendments. Under the rules, each was transmitted to the Calendar and Rules Committee.

### **CONSENT CALENDAR**

**House Bill No. 3275** -- Morrison - Subject to local approval, rewrites charter. Amends Chapter 244 of the Acts of 1905; as amended. by \*Rhinehart. (SB3229 by \*Cooper J)

**House Bill No. 3276** -- Dickson County - Subject to local approval, revises procedures for collection of Dickson County adequate facilities tax in municipalities not issuing building permits Amends Chapter 158 of the Private Acts of 2000. by \*Shepard.

**House Bill No. 3273** -- Viola - Subject to local approval, decreases term of mayor and aldermen from four-year terms to two-year terms. Amends Chapter 320 of the Acts of 1901; as amended. by \*Rhinehart. (SB3227 by \*Cooper J)

**House Bill No. 3269** -- McKenzie - Pursuant to local request, revises tax rate for McKenzie Special School District. Amends Chapter 533 of the Private Acts of 1917, as amended. by \*Maddox. (SB3226 by \*Carter)

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**House Bill No. 3252** -- Normandy - Subject to local approval, rewrites charter of Town of Normandy. Amends Chapter 675 of the Private Acts of 1921. by \*Phillips. (SB3203 by \*Trail)

**House Bill No. 3274** -- Gallatin - Subject to local approval, amends charter concerning residency of director of finance, police chief, and superintendent of public utilities and public works; exempts city attorney from acting full-time as city attorney. Amends Article III, Section 2 of Chapter 67 of the Private Acts of 1953. by \*McDonald, \*Black. (SB3225 by \*Graves)

**House Bill No. 3279** -- Hamblen County - Subject to local approval, enacts hotel motel tax. Amends Chapter. by \*Ford S. (SB3234 by \*Haun)

**House Bill No. 3280** -- Bledsoe County - Repeals provisions pertaining to county judge in Bledsoe County. by \*Rhinehart. (SB3233 by \*Elsea)

**\*House Joint Resolution No. 789** -- Highway Signs - "Sheriff Israel Smith Memorial Highway", U.S. Highway 11 in Bradley County. by \*Newton.

**\*House Joint Resolution No. 659** -- General Assembly, Directed Studies - Continues joint study committee on electric utility industry deregulation until February 28, 2004. by \*Kisber.

**\*House Joint Resolution No. 862** -- General Assembly, Directed Studies - Directs Tennessee Law Enforcement Advisory Council to study electronic recording of custodial interrogations of defendants in criminal cases. by \*Buck, \*Briley.

**\*House Joint Resolution No. 830** -- Highway Signs - "Harriett Moore Memorial Road", S.R. 420 in Gibson County. by \*Phelan.

**\*House Bill No. 2551** -- Highway Signs - "Veterans Memorial Bridge," S.R. 30 in Bledsoe County. by \*Rhinehart. (SB2883 by \*Elsea, \*Cooper J, \*Haun, \*Davis L)

On motion, House Bill No. 2551 was made to conform with **Senate Bill No. 2883**; the Senate Bill was substituted for the House Bill.

**\*House Joint Resolution No. 836** -- Highway Signs - Replaces signs for "S. Sgt. Raymond E. Cooley - Medal of Honor Recipient" and "S. Sgt. Ray E. Duke - Medal of Honor Recipient" on State Route 28 in Marion County. by \*Rhinehart.

**House Bill No. 2738** -- Sunset Laws - Board of probation and parole, June 30, 2006. Amends TCA Title 4, Chapter 29, and Title 40, Chapter 28. by \*Kernell, \*Brooks, \*Cooper B. (\*SB2111 by \*Harper, \*Burchett, \*Trail)

On motion, House Bill No. 2738 was made to conform with **Senate Bill No. 2111**; the Senate Bill was substituted for the House Bill.

**House Bill No. 2727** -- Sunset Laws - James K. Polk memorial association, June 30, 2008. Amends TCA Title 4, Chapter 13 and Title 4, Chapter 29. by \*Kernell, \*Brooks, \*Cooper B, \*Sands. (\*SB2033 by \*Harper)

On motion, House Bill No. 2727 was made to conform with **Senate Bill No. 2033**; the Senate Bill was substituted for the House Bill.

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**House Bill No. 2725** -- Sunset Laws - Interstate rail passenger advisory council, June 30, 2002. Amends TCA Title 4, Chapter 42 and Title 4, Chapter 29. by \*Kernell, \*Brooks, \*Cooper B. (\*SB2035 by \*Harper, \*Burchett, \*Trail)

On motion, House Bill No. 2725 was made to conform with **Senate Bill No. 2035**; the Senate Bill was substituted for the House Bill.

**House Bill No. 2717** -- Sunset Laws - Rail service authorities, June 30, 2008. Amends TCA Title 4, Chapter 29 and Title 7, Chapter 56. by \*Kernell, \*Brooks, \*Cooper B. (\*SB2064 by \*Harper, \*Burchett, \*Trail)

On motion, House Bill No. 2717 was made to conform with **Senate Bill No. 2064**; the Senate Bill was substituted for the House Bill.

**House Bill No. 2750** -- Sunset Laws - Human rights commission, June 30, 2003. Amends TCA Title 4, Chapter 21 and Title 4, Chapter 29. by \*Kernell, \*Cooper B. (\*SB2104 by \*Harper, \*Burchett, \*Trail)

**House Bill No. 2710** -- Sunset Laws - State board of accountancy, June 30, 2008. Amends TCA Title 4, Chapter 29 and Title 62, Chapter 1. by \*Kernell, \*Brooks, \*Cooper B. (\*SB2069 by \*Harper)

On motion, House Bill No. 2710 was made to conform with **Senate Bill No. 2069**; the Senate Bill was substituted for the House Bill.

**House Bill No. 2761** -- Sunset Laws - Panel on health care facility penalties, June 30, 2003. Amends TCA Title 4, Chapter 29 and Title 68, Chapter 11. by \*Kernell, \*Cooper B. (\*SB2096 by \*Harper, \*Burchett, \*Trail)

On motion, House Bill No. 2761 was made to conform with **Senate Bill No. 2096**; the Senate Bill was substituted for the House Bill.

**House Bill No. 2733** -- Sunset Laws - Board of social worker certification and licensure, June 30, 2008. Amends TCA Title 4, Chapter 29 and Title 63, Chapter 23. by \*Kernell, \*Brooks, \*Cooper B. (\*SB2046 by \*Harper, \*Burchett, \*Trail)

On motion, House Bill No. 2733 was made to conform with **Senate Bill No. 2046**; the Senate Bill was substituted for the House Bill.

**House Bill No. 2721** -- Sunset Laws - Higher education and technical institutions publication committee, June 30, 2008; deletes commissioner of education as member of committee. Amends TCA Title 4, Chapter 29 and Title 12, Chapter 7. by \*Kernell, \*Brooks, \*Cooper B. (\*SB2039 by \*Harper, \*Trail, \*Burchett)

On motion, House Bill No. 2721 was made to conform with **Senate Bill No. 2039**; the Senate Bill was substituted for the House Bill.

## WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY

**House Bill No. 2718** -- Sunset Laws - Military affairs commission, June 30, 2006. Amends TCA Title 4, Chapter 50 and Title 4, Chapter 29. by \*Kernell, \*Brooks, \*Cooper B. (\*SB2065 by \*Harper, \*Burchett, \*Trail)

On motion, House Bill No. 2718 was made to conform with **Senate Bill No. 2065**; the Senate Bill was substituted for the House Bill.

**Senate Joint Resolution No. 504** -- Naming and Designating - Designates May, 2002, as "Jaycees Against Youth Smoking Month.". by \*Cooper J, \*Kurita, \*Cohen, \*Davis L, \*Dixon, \*Graves.

**\*House Joint Resolution No. 672** -- General Assembly, Studies - Creates interagency coordinating council to study prevention of hepatitis in prisons, provision of health services to persons with hepatitis in prison, and other related issues. by \*Bowers.

Pursuant to **Rule No. 50**, Rep. Phillips moved that all House Bills having companion Senate Bills and are on the Clerk's desk be conformed and substituted for the appropriate House Bill, all Senate and House Bills on the Consent Calendar be passed on third and final consideration, all House Resolutions and House Joint Resolutions be adopted, and all Senate Joint Resolutions on the Consent Calendar be concurred in, which motion prevailed by the following vote:

Ayes .....	95
Noes .....	0
Present and not voting .....	1

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Shelby), Turner (Davidson), Vincent, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 95.

Representatives present and not voting were: Harwell -- 1.

A motion to reconsider was tabled.

### REGULAR CALENDAR

**House Bill No. 2924** -- Taxes, Litigation - Imposes penalties on court clerks for failure to collect tax. Amends TCA Section 67-4-605. by \*DeBerry J. (\*SB2334 by \*Dixon, \*Person)

Further consideration of House Bill No. 2924 previously considered on May 8, 2002, at which time it was reset for today's Calendar.

On motion, House Bill No. 2924 was moved to the heel of the Calendar.

**WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY**

**House Bill No. 2808** -- Workers' Compensation - Defines mental injury for workers' compensation law. Amends TCA Title 50, Chapter 6. by \*Cole (Dyer), \*Bowers. (\*SB2568 by \*Clabough)

Further consideration of House Bill No. 2808 previously considered on April 10, 2002, April 17, 2002, April 24, 2002 and May 8, 2002, at which time it was reset for today's Calendar.

Rep. Cole (Dyer) moved that House Bill No. 2808 be reset for the Regular Calendar on May 22, 2002, which motion prevailed.

**\*House Bill No. 3125** -- Gambling - Exempts pinball machines manufactured before 1980 from prohibition against gambling. Amends TCA Title 39, Chapter 17. by \*Armstrong. (SB3025 by \*Haun)

Further consideration of House Bill No. 3125 previously considered on April 24, 2002, at which time the bill failed to receive a Constitutional majority and May 8, 2002, at which time it was reset for today's Calendar.

On motion, House Bill No. 3125 was moved down 5 places on the Calendar.

**House Bill No. 1036** -- Employees, Employers - Authorizes police department employee to request monthly payroll deduction for membership dues in employee association; requires political subdivision to comply with request if 10 percent of all employees belong to association. Amends TCA Title 7, Chapter 51, Part 2. by \*West. (\*SB817 by \*Davis L)

Further consideration of House Bill No. 1036 previously considered on May 8, 2002, at which time it was reset for today's Calendar.

Rep. West moved that House Bill No. 1036 be reset for the Regular Calendar on May 22, 2002, which motion prevailed.

**House Bill No. 2510** -- Eminent Domain - Excludes redevelopment projects and redevelopment plans from prohibition on housing authority to take private property in urban renewal area by eminent domain for purposes of resale. Amends TCA Title 13, Chapter 20. by \*Hargrove. (\*SB2417 by \*Haynes)

Further consideration of House Bill No. 2510 previously considered on April 17, 2002, April 24, 2002, May 1, 2002 and May 8, 2002, at which time it was reset for today's Calendar.

Rep. Hargrove moved that House Bill No. 2510 be passed on third and final consideration.

Rep. Buck moved adoption of Judiciary Committee Amendment No. 1 as follows:

**Amendment No. 1**

AMEND House Bill No. 2510 by deleting Section 1 in its entirety and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 13-20-105, is amended by designating the current language as subsection (a) and by adding the following language as new subsections:

(b) Each housing authority shall maintain a current list of the urban renewal plans in effect in its respective municipality/county and such list shall be revised as required by the housing authority. Subsection (a) of this section shall apply only to property in areas defined in the current list of urban renewal plans maintained by the housing authority.

(c) The provisions of subsection (a) of this section shall not apply in a redevelopment area or with regard to any redevelopment project or redevelopment plan.

Rep. Buck withdrew the motion to adopt Judiciary Committee Amendment No. 1, which motion prevailed.

Rep. Hargrove requested that House Bill No. 2510 be moved to the heel of the Calendar.

**\*House Joint Resolution No. 746** -- Constitutional Amendments - Requires three-fifths majority of each house of general assembly to raise rate of sales tax or any tax measured by income. by \*Rinks, \*Buck, \*Newton, \*Walker, \*Stanley, \*Cole (Carter), \*Patton, \*Ford S, \*White, \*Sands, \*Maddox, \*Fitzhugh, \*Bone, \*Ridgeway, \*Shepard.

Further consideration of House Joint Resolution No. 746 previously considered on April 24, 2002 at which time the House adopted Amendment(s) No(s). 1 and 2. The resolution was also considered on May 1, 2002 and May 8, 2002.

Rep. Buck requested that the Clerk read House Joint Resolution No. 746, as amended, for the third and final Constitutional reading, according to the Tennessee Constitution.

The Clerk read House Joint Resolution No. 746, as amended.

Rep. Buck moved that **House Joint Resolution No. 746**, as amended, be adopted, which motion prevailed by the following vote:

Ayes .....	88
Noes .....	6
Present and not voting .....	1



**WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY**

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Davidson), Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 88.

Representatives voting no were: Givens, Jones U, Pruitt, Rhinehart, Turner (Shelby), Vincent -- 6.

Representatives present and not voting were: Sharp -- 1.

House Joint Resolution No. 746, having received a vote in the affirmative by two thirds of the members elected to the Tennessee House of Representatives of the One Hundred Second General Assembly, was declared adopted pursuant to Article 11, Section 3, of the Constitution of Tennessee.

Without objection, a motion to reconsider was tabled.

**House Bill No. 2316** -- Teachers, Principals and School Personnel - Requires reading instruction as mandatory element of teacher education curriculum and requires certification of teacher competence in reading instruction. Amends TCA. by \*Cooper B, \*Brooks. (\*SB2154 by \*Dixon)

Further consideration of House Bill No. 2316 previously considered on May 8, 2002, at which time it was objected to on the Consent Calendar and reset for today's Regular Calendar.

Rep. Cooper moved that **House Bill No. 2316** be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....	98
Noes .....	0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry L, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 98.

A motion to reconsider was tabled.

**WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY**

**\*House Bill No. 3186** -- Safety, Dept. of - Requires department to review driver license application and examination provisions in view of increased homeland security and report findings and recommendations to House Transportation Committees. Amends TCA Title 55, Chapter 50, Part 3. by \*Maddox, \*Odom, \*Shepard, \*Turner (Davidson), \*Jones, S., \*Cole (Dyer), \*Harwell, \*Hood. (SB3139 by \*Herron, \*Trail)

Rep. Maddox moved that House Bill No. 3186 be reset for the Regular Calendar on May 22, 2002, which motion prevailed.

**\*House Bill No. 3125** -- Gambling - Exempts pinball machines manufactured before 1980 from prohibition against gambling. Amends TCA Title 39, Chapter 17. by \*Armstrong. (SB3025 by \*Haun)

Further consideration of House Bill No. 3125 previously considered on today's Calendar.

Rep. Armstrong moved that House Bill No. 3125 be reset for the Regular Calendar on May 22, 2002, which motion prevailed.

**\*House Bill No. 2465** -- Contractors - Allows board for licensing contractors to establish scholarships at Tennessee institutions of higher learning for students pursuing course of study related to profession of contracting. Amends TCA Section 49-7-826 and Title 62, Chapter 6, Part 1. by \*Head, \*Fraleigh. (SB2778 by \*Cooper J)

On motion, House Bill No. 2465 was made to conform with **Senate Bill No. 2778**; the Senate Bill was substituted for the House Bill.

Rep. Head moved that Senate Bill No. 2778 be passed on third and final consideration.

On motion, Rep. Rhinehart withdrew Commerce Committee Amendment No. 1.

Rep. Head moved that **Senate Bill No. 2778** be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....	95
Noes .....	0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 95.

A motion to reconsider was tabled.

**WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY**

**House Bill No. 3176** -- Education - Allows department of education to extend temporary certificate of approval for fire and environmental safety for schools from 45 days to 60 days. Amends TCA Title 49. by \*Davidson. (\*SB2380 by \*Graves)

On motion, House Bill No. 3176 was made to conform with **Senate Bill No. 2380**; the Senate Bill was substituted for the House Bill.

Rep. Davidson moved that Senate Bill No. 2380 be passed on third and final consideration.

On motion, Rep. Winningham withdrew Education Committee Amendment No. 1.

Rep. Davidson moved that **Senate Bill No. 2380** be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....	95
Noes .....	0
Present and not voting .....	2

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 95.

Representatives present and not voting were: Caldwell, Kernell -- 2.

A motion to reconsider was tabled.

**House Bill No. 2546** -- Mobile Homes and Manufactured Buildings - Requires commissioner of commerce and insurance periodically to update investigation and examination of engineering and safety practices pertaining to manufactured homes. Amends TCA Title 68, Chapter 126. by \*Kisber. (\*SB2562 by \*Clabough)

Rep. Kisber moved that House Bill No. 2546 be passed on third and final consideration.

On motion, Rep. Rhinehart withdrew Commerce Committee Amendment No. 1.

Rep. Kisber moved adoption of Finance, Ways and Means Committee Amendment No. 1 as House Amendment No. 2 as follows:

**Amendment No. 2**

AMEND House Bill No. 2546 by deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 126, Part 2, is amended by deleting the word “dealer” wherever it appears and by substituting instead the word “retailer”.

SECTION 2. Tennessee Code Annotated, Section 68-126-202, is amended by deleting the text of subsection (2) and by substituting instead the following language:

(2) “Commissioner” means the commissioner of commerce and insurance or the commissioner’s designee;

SECTION 3. Tennessee Code Annotated, Section 68-126-202, is further amended by adding the following language as a new subsection (6) and by renumbering the remaining subsections accordingly:

“Mobile home” means a structure manufactured before June 15, 1976, that is not constructed in accordance with the national manufactured home construction and safety standards act of 1974, as amended (42 U.S.C. § 5401 et seq.). It is a structure that is transportable in one (1) or more sections that in the traveling mode is eight (8) body-feet or more in width and forty (40) body-feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet and that is built on a chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes any plumbing, heating, air conditioning and electrical systems contained therein.

SECTION 4. Tennessee Code Annotated, Section 68-126-202, is further amended by deleting the language of existing subsection (9) in its entirety and by substituting instead the following language:

“Set up” means installation of the manufactured home according to the manufacturer’s installation instructions or those provided in Sections 68-126-403(b)(2)(B), (C) and (D), and includes, but is not limited to: site preparation; support structures including footings, piers, caps and shims; anchoring systems; ground moisture barriers; connection, fastening, moisture barrier installation between sections, and roofing dry-in of multi-sections; HVAC duct connections; plumbing and electrical cross-over connections; completion of exterior siding; installation of heating application ventilation systems or fireplace chimney systems; and completion of hinged-roof sections.

SECTION 5. Tennessee Code Annotated, Section 68-126-205, is amended by deleting the text of the section in its entirety and by substituting instead the following language:

(a) No person may manufacture, sell, lease, or offer to sell or lease any manufactured home or recreational vehicle in violation of rules of the commissioner issued to afford reasonable protection to persons and property with respect to the construction, assembly, and sale or lease of such manufactured homes and recreational vehicles. Compliance with such rules shall be evidenced in the manner required therein.

(b) Any retailer who sells a manufactured home to a consumer in this state shall either:

(1) Provide set-up as provided in Section 68-126-403;  
or

(2) Cause the home to be set up, as provided in Section 68-126-403, by a licensed manufactured home installer approved and bonded in accordance with Section 68-126-404.

SECTION 6. Tennessee Code Annotated, Section 68-126-206, is amended by deleting the text of subsection (a) in its entirety and by substituting instead the following language:

It is unlawful to engage in business in this state as a manufacturer or retailer prior to obtaining a license from the commissioner. The commissioner may require of an applicant for a license such information and evidence of qualifications as are reasonably necessary to protect the public safety and welfare. An application for a license shall be submitted on the prescribed form, shall contain the applicant's business tax or privilege tax number, and shall be accompanied by a fee of one hundred dollars (\$100.00) for a manufacturer's license or forty dollars (\$40.00) for a retailer's license. License fees shall be payable annually, and shall not be prorated for portions of a year. All licenses shall expire one (1) year from the date of issuance.

In addition to meeting other lawful requirements, an applicant for a license as a retailer shall present, at the time of application, proof of having completed a fifteen (15) hour course, approved by the commissioner, covering the installation of manufactured homes.

Prior to being issued a license as a retailer, an applicant shall have passed an examination, in manufactured home installation, that is approved by the commissioner.

As a prerequisite to renewal for the year 2004 and prior to December 31, 2003, every person who was licensed prior to July 1, 2003 as a dealer shall complete a fifteen (15) hour course, approved by the commissioner, in the installation of manufactured homes, pass an examination in manufactured home installation that is approved by the commissioner, and present proof of the same to the commissioner. Failure to comply with the requirements of this subsection shall result in nonrenewal of the license (which will thereafter be known as a retailer license).

SECTION 7. Tennessee Code Annotated, Section 68-126-206, is further amended by deleting the text of subsection (b) and by substituting instead the following language:

(b) After January 1, 2004 and as a prerequisite to renewal of a license as a retailer, the retailer shall present proof of having completed five (5) hours of continuing education in manufactured home installation, during the twelve (12) month period immediately preceding renewal, that is approved by the commissioner. Any manufacturer or retailer who fails to renew such manufacturer's or retailer's license on or before its expiration date, or who commences business in this state prior to obtaining a license, shall be required to pay a penalty, in an amount the commissioner may determine by rule, for acting as a manufacturer or retailer without a license, in addition to the fee established in subsection (a) for issuance of a license.

SECTION 8. Tennessee Code Annotated, Section 68-126-214, is amended by deleting the text of the section in its entirety and by substituting instead the following language:

In order to eliminate unnecessary duplication of reviews of designs, inspections, certifications of manufactured homes and recreational vehicles, and licensure of installers, the commissioner may negotiate and enter into reciprocal agreements with appropriate officials of other states, or with an agent for such states. However, no such agreement shall be entered into if the commissioner determines that it would not provide protection at least equivalent to that afforded by the standards and procedures established under this part.

SECTION 9. Tennessee Code Annotated, Section 68-126-215, is amended by deleting the text of the section in its entirety and by substituting instead the following language:

All revenue resulting from the administration and enforcement of this part shall be placed to the credit of the manufactured housing fund created by section 68-126-406(c) and shall be used accordingly.

SECTION 10. Tennessee Code Annotated, Section 68-126-401, is amended by deleting the text of the section in its entirety and by substituting instead the following language:

This part shall be known and may be cited as the "Tennessee Manufactured Home Installation Act."

SECTION 11. Tennessee Code Annotated, Section 68-126-402, is amended by adding the following language as a new, appropriately designated subsection:

( ) "Commissioner" means the commissioner of commerce and insurance or the commissioner's designee;

SECTION 12. Tennessee Code Annotated, Section 68-126-402, is amended by deleting the text of subsections (3) and (4) and by substituting instead the following:

(3) "Set up" means installation of the manufactured home according to the manufacturer's installation instructions or those provided in Section 68-126-403(c)(2), (3) and (4), and includes, but is not limited to: site preparation; support structures including footings, piers, caps and shims; anchoring systems; ground moisture barriers; connection, fastening, moisture barrier installation between sections, and roofing dry-in of multi-sections; HVAC duct connections; plumbing and electrical cross-over connections; completion of exterior siding; installation of heating application ventilation systems or fireplace chimney systems; and completion of hinged-roof sections.

SECTION 13. Tennessee Code Annotated, Section 68-126-403, is amended by deleting the text of the section in its entirety and by substituting instead the following language:

(a) It is unlawful to occupy any manufactured home in this state unless the manufactured home has been installed by a person licensed by the commissioner to make such installation.

(b) It is unlawful for any person to locate or relocate any manufactured home in this state other than a home heretofore exempt, or a home previously installed and inspected according to rules in effect at the time of location on the site, unless the installation of the manufactured home has been done by a person licensed by the commissioner to make such installation.

(c) New homes installed after the effective date of this act shall be installed according to the following criteria:

(1) In compliance with the manufacturer's installation instructions, if provided or available;

(2) If the manufacturer has not provided or does not make available suitable instructions, then the home shall be installed according to instructions prepared and sealed by an engineer registered in the state of Tennessee; or

(3) As an alternative to subsections (c)(1) or (c)(2), the home may be installed according to the instructions contained in ANSI 225.1, 1994 Edition, until such time as federal standards are implemented pursuant to the Manufactured Housing Improvement Act of 2000, at which time the federal standards shall supplant the ANSI 225.1, 1994 Edition, instructions.

(4) In addition to the requirements of subsections (c)(1), (c)(2) or (c)(3), installation shall comply with federal emergency management agency regulations applicable to flood zones.

(d) Used homes installed after the effective date of this act shall be installed according to the following criteria:

(1) In compliance with the manufacturer's manual in use at the time the home was manufactured;

(2) As an alternative to subsection (d)(1), the home shall be installed according to instructions prepared and sealed by an engineer registered in the state of Tennessee; or

(3) As an alternative to subsections (d)(1) and (d)(2), the home may be installed according to the instructions in ANSI 225.1, 1994 Edition, until such time as federal standards are implemented pursuant to the Manufactured Housing Improvement Act of 2000, at which time the federal standards shall supplant the ANSI 225.1, 1994 Edition, instructions.

(4) In addition to the requirements of subsections (d)(1), (d)(2) or (d)(3), installation shall comply with federal emergency management agency regulations applicable to flood zones.

SECTION 14. Tennessee Code Annotated, Section 68-126-404, is amended by deleting the text of the section in its entirety and by substituting instead the following language:

(a) No person may install a manufactured home in this state unless such person is licensed by the commissioner as a manufactured home installer; except that a duly licensed manufactured home retailer may install manufactured homes, provided, that the person(s) performing the installation work at the site are the employees of the retailer. Any subcontractor used by a licensed retailer to perform installation work in accordance with Section 68-126-205 shall be duly licensed as a manufactured home installer or be covered under the retailer's bond. At least one (1) person who actually performs installation work at the site shall be licensed as either a retailer or a manufactured home installer.



(b) In addition to meeting other lawful requirements, an applicant for a license as a manufactured home installer shall present, at the time of application, proof of having completed a fifteen (15) hour course, approved by the commissioner, covering the installation of manufactured homes.

(c) Prior to being issued a license as a manufactured home installer, an applicant shall have passed an examination in manufactured home installation that is approved by the commissioner.

(d) As a prerequisite to renewal for the year 2004 and prior to December 31, 2003, every person who was licensed prior to July 1, 2003 as a stabilizing system installer shall complete a fifteen (15) hour course, approved by the commissioner, in the installation of manufactured homes, pass an examination in manufactured home installation that is approved by the commissioner, and present proof of the same to the commissioner. Failure to comply with the requirements of this subsection shall result in nonrenewal of the license (which will thereafter be known as a manufactured home installer license).

(e) An application for a license as a manufactured home installer shall be submitted on a form prescribed by the commissioner, and shall be accompanied by a fee of twenty-five dollars (\$25.00). An application for a license as a manufactured home installer shall be accompanied by a surety bond executed by the applicant as principal and by a surety company qualified to do business in the state of Tennessee as a surety. The bond shall be executed to the state of Tennessee and in favor of any consumer who shall suffer any loss as a result of the violation of this part. The bond shall be in the amount of ten thousand dollars (\$10,000.00). The fee specified herein shall be paid annually and shall not be prorated for portions of a year. All licenses shall expire one (1) year from the date of issuance.

(f) After January 1, 2004 and as a prerequisite to renewal of a license as a manufactured home installer, the manufactured home installer shall present proof of having completed five (5) hours of continuing education in manufactured home installation, during the twelve (12) month period immediately preceding renewal, that is approved by the commissioner.

(g) The commissioner may require retailers or installers to establish and maintain such records, make such reports, and provide such information as may be necessary to ensure compliance with this part.

SECTION 15. Tennessee Code Annotated, Section 68-126-406, is amended by deleting the text of the section in its entirety and by substituting instead the following language:

(a) All manufactured homes required to be installed pursuant to Section 68-126-403 may be inspected for compliance with applicable standards by qualified manufactured housing inspectors provided by the commissioner. Such inspectors shall have specialized training in manufactured housing installation inspection. The form and manner of training shall be determined by the commissioner.

(b) The installer shall apply for an installation permit prior to installing a manufactured home and shall pay an inspection fee of forty-five dollars (\$45.00). The permit may be purchased and the fee shall be paid to the county clerk in any county of this state. The county clerk shall retain eight dollars (\$8.00) of each permit fee and remit thirty-seven dollars (\$37.00) to the commissioner. The fees shall be remitted to the commissioner on a monthly basis, not later than the twentieth day of the month following the month in which the fee is paid, and such remittance shall include a report of the license numbers of the installers and retailers who purchase permits and the corresponding permit numbers sold.

(c) All fees remitted to the commissioner, plus any funds received by the state from the federal department of housing and urban development for manufactured housing, shall be allocated to a fund within the general fund called the "manufactured housing fund" and shall, subject to appropriation, be utilized exclusively to fund the commissioner's regulatory activities pertaining to manufactured homes. Funds deposited in the manufactured housing fund shall not revert to the general fund at the end of the fiscal year but shall remain available for appropriation for the purposes provided in this subsection.

(d) In case of rejection of any part of the home installation, a separate forty-five dollar (\$45.00) fee shall be charged to the installer.

(e) The commissioner shall ensure that at least five percent (5%) of manufactured homes installed in the State of Tennessee each year are inspected; provided, that there shall be at least one (1) inspection of a home installed by each installer each year. Inspection shall occur within twenty (20) business days after the commissioner's receipt of the installer's report. Each installer shall submit a report to the commissioner on at least a weekly basis describing the homes installed by the installer that week. Such report shall include, at a minimum, the name and address of the retailer and the location of each home installed.

(f) Upon payment of the inspection fee, the county clerk shall provide the purchaser a permit decal. The commissioner shall provide the permit decals to the county clerk. Installers and retailers may purchase decals in lots of ten (10) each; provided, that no more than twenty (20) permits are outstanding at any time. The commissioner shall account for all permits.

(g) A permit decal shall be placed on each new and used home that is installed after January 1, 2004. The decal shall be affixed inside the electrical panel box cover. The installer shall write the address where the home is located on the permit. The state or local electrical inspector shall not authorize electricity to be turned on at the home if no installation decal is on the home when the electrical installation is done.

(h) If a permit decal is lost or destroyed, the applicant for a replacement decal shall pay to the county clerk a fee of forty-five dollars (\$45.00), from which the county clerk shall retain eight dollars (\$8.00) and remit thirty-seven dollars (\$37.00) to the commissioner. The applicant for the replacement permit decal shall provide to the county clerk an affidavit stating that the decal was lost or destroyed. The county clerk shall submit a copy of the affidavit for any replacement permit decal issued with the monthly report to the commissioner.

SECTION 16. Tennessee Code Annotated, Section 68-126-407, is amended by deleting the section in its entirety and by renumbering subsequent sections accordingly.

SECTION 17. Tennessee Code Annotated, Section 68-126-410, is amended by deleting the text of the section in its entirety and by substituting instead the following language:

(a) For purposes of this section, "imminent safety hazard" means a hazard creating an imminent and unreasonable risk of death or severe personal injury.

(b) Any person who violates any provision of this part, or any rule or regulation promulgated under this part, shall be subject to the following penalties:

(1) If the violation does not create an imminent safety hazard, the following shall apply:

(A) The commissioner shall notify the installer, in writing, of the violation(s) and direct the installer to correct the violation(s) within thirty (30) days of the date of the letter. Such notification shall also be sent to the retailer. In determining whether such a violation has occurred, the inspector shall take into account the manufacturer's installation instructions. The installer shall respond to the commissioner, in writing, and confirm that corrections have been made and outline the steps taken to correct the violation(s). The commissioner may reinspect the home or verify with the homeowner that corrections were made.

(B) If after notification of violation(s) and after thirty (30) days have passed, the installer has not corrected the violations, then the commissioner may, after providing notice and an opportunity for a hearing pursuant to the Uniform Administrative Act compiled in title 4, chapter 5, revoke or suspend the license of the installer. In addition to or in lieu of any other lawful discipline, the commissioner may assess a civil penalty in accordance with the following schedule:

(i) For a first offense within a one (1) year period, a civil penalty of one hundred dollars (\$100);

(ii) For a second offense not involving the same violation within a one (1) year period, a civil penalty in an amount of one hundred dollars (\$100) to five hundred dollars (\$500);

(iii) For a third or subsequent offense not involving the same violation within a two (2) year period, a civil penalty in an amount of five hundred dollars (\$500) to two thousand five hundred dollars (\$2,500);

(iv) For a second or subsequent offense involving the same violation within a two (2) year period, a civil penalty of two thousand five hundred dollars (\$2,500).

(v) In addition to or in lieu of imposing other lawful discipline, the commissioner may require an installer to take additional education or retake the examination or both.

(C) In any finding of violation(s), the inspector shall cite on the inspection report the section from the manufacturer's installation instructions (or other applicable installation standards) pertaining to the violation(s). If the responsibility for the violation(s) is not clear and the retailer presents no documentation to the contrary, the retailer shall be held responsible for the entire installation.

(2) If the violation creates an imminent safety hazard, the following shall apply:

(A) The commissioner shall notify the installer immediately, in writing, of the violation(s) and direct the installer to correct the violation(s) immediately. Such notification shall also be sent to the retailer. In determining whether such a violation has occurred, the inspector shall take into account the manufacturer's installation instructions. The installer shall respond to the commissioner, in writing, within twenty-four (24) hours of receiving notification of the violation(s) and provide a plan of corrective action outlining the steps that will be taken to correct the violation(s). The commissioner may reinspect the home or verify with the homeowner that corrections were made.

(B) If after notification of violation(s) and after twenty-four (24) hours have passed, the installer has not submitted an acceptable plan of corrective action, then the commissioner may, after providing notice and an opportunity for a hearing pursuant to the Uniform Administrative Act compiled in title 4, chapter 5, revoke or suspend the license of the installer. In addition to or in lieu of any other lawful discipline, the commissioner may assess a civil penalty in accordance with the schedule set forth in subsection (b)(1)(B) above.

(C) In addition to or in lieu of imposing other lawful discipline, the commissioner may require an installer to take additional education or retake the examination or both.

(D) In any finding of violation(s), the inspector shall cite on the inspection report the section from the manufacturer's installation instructions (or other applicable installation standards) pertaining to the violation(s). If the responsibility for the violation(s) is not clear and the installer presents no documentation to the contrary, the retailer shall be held responsible for the entire installation.

(c) Any person who violates any provision of this part, or of any rule or regulation promulgated pursuant thereto, commits a Class C misdemeanor.

(d) The commissioner may also seek injunctive relief against any violation of this part, or of any rule or regulation promulgated pursuant thereto, in accordance with the procedure established in section 68-135-111.

SECTION 18. Tennessee Code Annotated, Section 68-126-411, is amended by deleting the text of the section in its entirety and by substituting instead the following language:

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All revenue resulting from the administration of this part shall be placed to the credit of the manufactured housing fund, and shall be used accordingly.

SECTION 19. Tennessee Code Annotated, Section 68-126-412, is amended by deleting the text of the section in its entirety and by substituting instead the following language:

It is the intention of the general assembly that this part, and the regulations issued pursuant thereto, preempt any local ordinance or regulation of the installation of manufactured homes. All city, county and consolidated government resolutions, ordinances, regulations and code requirements on installation of manufactured homes are superseded by the provisions of this chapter, and regulations issued thereto.

SECTION 20. Any person who on July 1, 2003 holds a dealer license or a manufactured home stabilizing system installer license issued under prior law of this state shall be entitled to convert a dealer license to a retailer license or a stabilizing system installer license to a manufactured home installer license at the time of renewal, upon the fulfillment of all the requirements for a new applicant for either a retailer or a manufactured home installer license set forth in Section 6 and Section 13 of this act.

SECTION 21..This act shall take effect immediately for purposes of rulemaking, the public welfare requiring it. Notwithstanding any provision of this act to the contrary, this act shall take effect on July 1, 2003 for the purpose of requiring new applicants for a retailer or manufactured home installer license to comply with Section 6 and Section 13 of this act, the public welfare requiring it. For all other purposes, this act shall take effect on January 1, 2004, the public welfare requiring it.

On motion, Finance, Ways and Means Committee Amendment No. 1 as House Amendment No. 2 was adopted.

Rep. Kisber moved adoption of Finance, Ways and Means Committee Amendment No. 2 as House Amendment No. 3 as follows:

**Amendment No. 3**

AMEND House Bill No. 2546 by adding the following sentence immediately after the second sentence of the amendatory Section 68-126-410(b)(1)(A) in Section 17 of the bill as amended by House Finance, Ways & Means Committee Amendment No. 1:

Upon appropriate written request, the commissioner may grant an extension of time to correct the violation(s).

On motion, Finance, Ways and Means Committee Amendment No. 2 as House Amendment No. 3 was adopted.

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Rep. Kisber moved that **House Bill No. 2546**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....	96
Noes .....	0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 96.

A motion to reconsider was tabled.

### CHAIR TO DEBERRY

Mr. Speaker Naifeh relinquished the Chair to Rep. DeBerry, Speaker pro tempore.

### REGULAR CALENDAR, CONTINUED

**House Bill No. 3003** -- Jefferson County - Requires election of commissioners for water utility districts in Jefferson County. Amends TCA Section 7-82-307. by \*Roach. (\*SB2364 by \*Williams, Sen.)

On motion, House Bill No. 3003 was made to conform with **Senate Bill No. 2364**; the Senate Bill was substituted for the House Bill.

Rep. Roach moved that Senate Bill No. 2364 be passed on third and final consideration.

On motion, Rep. U. Jones withdrew State and Local Government Committee Amendment No. 1.

On motion, Rep. U. Jones withdrew State and Local Government Committee Amendment No. 2.

Rep. Kisber moved adoption of Finance, Ways and Means Committee Amendment No. 1 as House Amendment No. 3 as follows:

### Amendment No. 3

AMEND Senate Bill No. 2364 by deleting the amendatory new section of House State and Local Government Committee Amendment No. 2 in its entirety and by substituting instead the following language:

SECTION \_\_\_\_.

(a) The Tennessee Advisory Commission on Intergovernmental Relations ("TACIR") is directed to perform a study of the size, composition and selection of boards of commissioners of utility districts. TACIR shall also study the current provisions of Tennessee Code Annotated, Section 7-82-307 and consider whether a new mechanism should be created which would permit changes concerning such boards to be handled locally rather than employing the present legislative method that requires amending the general bill by introducing general bills of local application directly affecting only one utility district. As part of its study, TACIR should consider whether alternative legislative methods should be developed and placed in the general law as options for local action, as well as incorporating a petition method to allow the subscribers to trigger an election for a change to the board. This study shall be conducted from TACIR's existing resources.

(b) All appropriate state departments and agencies shall provide assistance to TACIR. Groups representing utility districts shall be asked to provide information, analyses, and recommendations to TACIR.

(c) TACIR shall timely report its findings and recommendations, including any proposed legislation or interim reports, to the One Hundred Third General Assembly no later than February 28, 2003.

On motion, Finance, Ways and Means Committee Amendment No. 1 as House Amendment No. 3 was adopted.

Rep. Roach moved that **Senate Bill No. 2364** be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....	95
Noes .....	0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 95.

A motion to reconsider was tabled.



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**\*House Bill No. 2429** – Nurses, Nursing - Establishes classification of advance practice nurse. Amends TCA Section 63-1-132; Section 63-7-106; Section 63-7-123 and Section 63-7-207. by \*Odom, \*Black, \*Bowers, \*Cole (Dyer), \*Harwell, \*Jones, S.. (SB2488 by \*Cooper J, \*Harper, \*Crutchfield, \*Wilder)

On motion, House Bill No. 2429 was made to conform with **Senate Bill No. 2488**; the Senate Bill was substituted for the House Bill.

Rep. Odom moved that Senate Bill No. 2488 be passed on third and final consideration.

On motion, Rep. Armstrong withdrew Health and Human Resources Committee Amendment No. 1.

Rep. Odom moved that **Senate Bill No. 2488** be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....96  
Noes .....0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 96.

A motion to reconsider was tabled.

**\*House Bill No. 2234** -- Consumer Protection - Prohibits price-gouging resulting from terrorist act, war, strike, or natural disaster. Amends TCA Title 47, Chapter 18 and Title 58, Chapter 2. by \*Odom. (SB2503 by \*Crutchfield, \*Burks, \*Crowe, \*Fowler, \*Person)

On motion, House Bill No. 2234 was made to conform with **Senate Bill No. 2503**; the Senate Bill was substituted for the House Bill.

Rep. Odom moved that Senate Bill No. 2503 be passed on third and final consideration.

Rep. West moved adoption of Consumer and Employee Affairs Committee Amendment No. 1 as follows:

**Amendment No. 1**

AMEND Senate Bill No. 2503 by deleting subdivision (4) from the amendatory Section 47-18-5102 in Section 2 of the printed bill and by substituting instead the following language:

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(4) "State of emergency" means a natural or man-made disaster or emergency resulting from terrorist attack, war, strike, civil disturbance, tornado, earthquake, fire, flood, or any other natural disaster declared by the president of the United States or by the governor pursuant to Title 58, Chapter 2, Part 1.

AND FURTHER AMEND by deleting from the amendatory Section 47-18-5103 in Section 2 of the printed bill the language "for a period of thirty (30) days" and by substituting instead the language "for a period of fourteen (14) days".

On motion, Consumer and Employee Affairs Committee Amendment No. 1 was adopted.

Rep. Odom moved that **Senate Bill No. 2503**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....	95
Noes .....	1
Present and not voting .....	1

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 95.

Representatives voting no were: Turner (Shelby) -- 1.

Representatives present and not voting were: Caldwell -- 1.

A motion to reconsider was tabled.

**\*House Bill No. 3148** -- Water - Enacts "Tennessee Water Resources Information Act." - Chapters 8 and 11 of Title 69 and Section 66-11-210 of the TCA. by \*McCord. (SB3076 by \*Ramsey)

Rep. McCord moved that House Bill No. 3148 be passed on third and final consideration.

Rep. Garrett moved adoption of Conservation and Environment Committee Amendment No. 1 as follows:

**Amendment No. 1**

AMEND House Bill No. 3148 by deleting everything following the enactment clause and substituting instead the following:

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SECTION 1. Tennessee Code Annotated, Title 69, Chapter 8, is amended by deleting Section 69-8-105 in its entirety and adding Sections 2 through 10 of this Act as a new part.

SECTION 2. This part shall be known and may be cited as the "Tennessee Water Resources Information Act".

SECTION 3. The general assembly recognizes that in other states the withdrawal of ground water has caused the lowering of the ground water table and that there is potential for ground water or surface water withdrawals to impact water uses in Tennessee. Therefore, it is necessary and prudent to institute a system of registration so that adequate information is obtained to document current demand for water and to project growth in that demand as applicable to Sections 4 through 10.

SECTION 4. As used in this part, unless the context otherwise requires, these terms shall have the following meanings.

(a) "Board" means the water quality control board established pursuant to T.C. A. §69-3-104.

(b) "Commissioner" means the commissioner of the department of environment and conservation, the commissioner's duly authorized representative and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner of environment and conservation.

(c) "Person" means any individual, corporation, company, limited liability company partnership, association, group, utility district, federal, state or local government agency, or any combination of them.

(d) "Source" means a location where surface or ground water is available, including, but not limited to, a water well, cave, spring, stream, river, lake, or impoundment.

(e) "Withdraw" means to take water from any source on a regular or recurring basis by means of an intake structure, pipe and pump that diverts water away from a source, or by any other conveyance with or without the use of suction. This does not include nonrecurring withdrawals including, but not limited to, the filling of a swimming pool from a residential water well or accidental withdrawals caused by failure of pipes or equipment.

SECTION 5. (a) Except as provided in subsections (a)(2) and (a)(3) of this section, no person shall withdraw ten thousand (10,000) or more gallons of water per day from a surface water or a groundwater source unless the withdrawal is currently registered with the commissioner. The commissioner shall accept a recognized method of measuring the quantities of water withdrawn.

(1) Any person who causes such a withdrawal, or proposes such a withdrawal shall annually register such water withdrawal with the commissioner on forms provided for the purpose. For water wells drilled pursuant to T.C.A. §69-11-101, the initial withdrawal may be registered by the well driller, on behalf of the person causing or proposing the withdrawal, by providing the required information, including an estimate of the withdrawal amount, with the notification of the intent to drill a well and by verifying and/or modifying the information when the report of well driller is delivered to the commissioner. Subsequent withdrawals from water wells shall be registered annually by the person who causes such a withdrawal, or proposes such a withdrawal.

(2) A person may withdraw water for emergencies involving human health and safety without having first registered the withdrawal, provided it is not done on a regular or recurring basis.

(3) A person may withdraw water for agricultural purposes without having registered the withdrawal. If a person withdraws water for agricultural purposes and another purpose, the water used for agriculture shall not count towards the calculation of whether the withdrawal exceeds ten thousand (10,000) gallons per day. For purposes of this part, "agricultural purposes" shall mean use in the production or harvesting of an agricultural product, including, but not limited to, irrigation of crops, nursery stock production as defined at T.C.A. §43-1-112, and watering of poultry or livestock.

SECTION 6. The commissioner has the power to:

(a) Annually collect and compile water quantity data and other quantity information, including data and information on uses of water and well data, and to develop registration and other forms for these purposes; if requested and if it is deemed necessary by the commissioner to protect trade secret information as defined in T.C.A. §47-25-1702, the commissioner shall keep such trade secret information confidential;

(b) Accept forms and data provided by a municipality which has adopted home rule pursuant to Article 11, Section 9 of the Tennessee Constitution, or any county operating under a county charter form of government, as part of the annual registration and/or data collection process;

(c) Pursuant to Section 3, make inspections and investigations, collect samples pursuant to a water quantity inspection or investigation, carry on research, or take such other action as may be necessary to carry out the provisions of this part, rules and regulations issued pursuant thereto, and any orders which the commissioner may issue;

(d) Enter or authorize the commissioner's agents to enter at all reasonable times upon any property other than dwelling places for the purpose of conducting investigations or studies or enforcing any of the provisions of this part;

(e) Bring suit in the name of the department for any violation of the provisions of this part, rules and regulations, and orders of the commissioner seeking any remedy therein provided and any other statutory or common law remedy therein provided;

(f) Assess civil penalties for violation of any provision of this part or any rule, regulation, standard adopted or order issued by the commissioner pursuant to this part;

(g) Issue orders as may be necessary to secure compliance with the provisions of this part, as well as the rules and regulations adopted pursuant to this part; and

(h) Exercise general supervision over the administration and enforcement of this part and all rules and regulations promulgated thereunder.

SECTION 7. (a) The board has the authority to promulgate the rules, other than rules establishing fees, that it deems reasonable and necessary to effectuate the purposes of this part, in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

(b) The board has the authority to conduct and make all rulings in contested cases under this part.

SECTION 8. (a)(1) Whenever the commissioner has reason to believe that a person is withdrawing water without having a valid registration, or has supplied false or materially misleading information to the department or has violated any order or rule promulgated pursuant to this part, the commissioner may cause a written administrative order to be delivered to the alleged violator. The order shall specify the provision of this part or rule or order alleged to be violated, the facts alleged to constitute a violation thereof, and may order that corrective action be taken within a reasonable time to be prescribed in such order, and shall inform the violators of the opportunity for a hearing.

(2) Any such order shall become final and not subject to review unless the person or persons named therein request by written petition a hearing no later than thirty (30) days after the date such order is delivered; provided, that the board may review such final order on the same grounds upon which a court of the state may review default judgments.

(b) Except as otherwise expressly provided, any order issued by or under authority of this part may be served on any person by the commissioner or any person designated by the commissioner, by certified mail, or in accordance with Tennessee statutes authorizing service of process in civil actions.

(c) Any person who violates or fails to comply with any provision of this part, any order of the commissioner or board issued pursuant to this part or any rule, regulation, or standard adopted pursuant to this part shall be subject to a civil penalty of not less than fifty dollars (\$50.00) nor more than seven thousand five hundred dollars (\$7,500.00) per day for each day of violation. Each day such violation continues is a separate violation.

(d) In addition to the commissioner bringing an action in any court of competent jurisdiction, a civil penalty may be assessed in the following manner:

(1) The commissioner may issue an assessment against any person responsible for the violation;

(2) Any person against whom an assessment has been issued may secure a review of such assessment by filing with the commissioner a written petition setting forth the grounds and reasons for the objections and asking for a hearing before the board in the matter involved. If a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator shall be deemed to have consented to the assessment and it shall become final; and

(3) Whenever any order or assessment has become final because of a person's failure to appeal the commissioner's order or assessment, the commissioner may apply to the appropriate court for a judgment and seek execution of such judgment. The court, in such proceedings, shall treat the failure to appeal such order or assessment as a confession of judgment in the amount of the assessment.

(4) In assessing a civil penalty, the following factors may be considered:

(A) The harm done or potential for harm to the public health or the environment;

(B) The harm done or potential for harm to the regulatory program by the violation;

(C) The economic benefit gained by the violator;

(D) The amount of effort put forth by the violator to avoid or to remedy the violation; and

(E) Any unusual or extraordinary enforcement costs incurred by the commissioner.

(e) Any hearing or rehearing brought before the board shall be conducted in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

(f) The commissioner may also initiate an action in any court of competent jurisdiction seeking a judgment for any unpaid penalties.

(g) When there is reason to believe that a person has violated, or is about to violate, any of the provisions of this part or orders issued thereunder, the commissioner may institute proceedings in the appropriate court for injunctive relief.

(h) Any person intentionally violating, or failing, neglecting, or refusing to comply with, any of the provisions of this part or rules or regulations commits a Class C misdemeanor. Each day upon which such violation occurs is a separate offense.

SECTION 9. (a) The commissioner and the board shall encourage and support regional water planning whenever possible. In the future, if there is a specific appropriation of state or federal funds for regional water supply planning, the board may require regional water supply planning and may provide incentives to encourage such regional planning, using the rulemaking authority under this part for so long as such specific appropriation is in effect. Among other criteria, state agencies are authorized to consider regional planning and regionalization efforts when awarding grants, making loans or funding projects.

(b) The general assembly recognizes that the Duck River Development Agency and the Mississippi, Arkansas, Tennessee Regional Aquifer Study are potential models for regional planning and modeling efforts. By January 1, 2003, the Duck River Development Agency and the Mississippi, Arkansas, Tennessee Regional Aquifer Study shall report to the general assembly their findings and lessons learned. All state agencies are encouraged to cooperate with these agencies.

SECTION 10. The commissioner shall appoint a technical advisory committee, the number of members to be determined by the commissioner, that shall advise the commissioner on the status of the state's water resources and future planning efforts. The technical advisory committee shall be composed of representatives of federal, state, and local agencies and of appropriate private organizations, including not for profit organizations. No member of this committee is entitled to a salary for duties performed as a member of the committee. No member is entitled to reimbursement for travel and other necessary expenses incurred in the performance of official duties.

SECTION 11. Tennessee Code Annotated, Title 69, Chapter 11, is amended by deleting the phrase "water well" wherever found and inserting in lieu thereof the word "well".

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SECTION 12. Tennessee Code Annotated, Section 69-11-101, is amended by deleting it and substituting instead the following:

- (1) "Board" means the board of ground water management;
- (2) "Commissioner" means the commissioner of environment and conservation, the commissioner's duly authorized representative and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner of environment and conservation;
- (3) "Department" means the department of environment and conservation;
- (4) "Drill" means to dig, drill, re-drill, construct, deepen or alter a well;
- (5) "Geothermal well" means a hole drilled into the earth, by boring or otherwise, greater than twenty feet (20') in depth constructed for the primary purpose of adding or removing British Thermal Units (BTU) from the earth for heating or cooling.
- (6) "Inactive Well" means any well not in use and does not have functioning equipment, including bailers, associated either in or attached to the well;
- (7) "Installer" means any person who installs or repairs well pumps or who installs filters and water treatment devices;
- (8) "Log" means a record of the consolidated or unconsolidated formation penetrated in the drilling of a well, and includes general information concerning construction of a well;
- (9) "Monitoring well" means a hole drilled into the earth, by boring or otherwise, constructed for the primary purpose of obtaining information on the elevation or physical, chemical, radiological or biological characteristics of the ground water and/or for the recovery of ground water for treatment;
- (10) "Person" means any individual, organization, group, association, partnership, corporation, limited liability company, utility district, state or local government agency or any combination of them;
- (11) "Water well" means a hole drilled into the earth, by boring or otherwise, for the production of water;
- (12) "Well" means one of these three types of holes in the earth: a geothermal well, a monitoring well, or a water well; and



(13) "Well owner" means the person who owns the real property on which a well exists or is to be drilled provided however, in the case of any monitoring or remediation required by the department or the commissioner, the well owner shall be the person responsible for such monitoring or remediation.

SECTION 13. Tennessee Code Annotated, dele 69-11-102, is amended by deleting it and substituting instead the following:

(a) It is unlawful for any well to be drilled or closed except by licensed individuals. In order to obtain a water well, a monitoring well or a geothermal well driller's license, an individual shall file with the commissioner, on or before July 31 of each year, an application form to be made available by the commissioner, with the following information:

(1) The name under which the individual is doing business in this state;

(2) The office address or principal place of business of the individual; and

(3) Such other information as the commissioner may deem reasonable and necessary.

(b) Each applicant for one of the three types of well driller's license shall submit the required fee to the commissioner with the application. The application fee for each annual license shall be one hundred dollars (\$100.00). The payment of the fee shall be in lieu of any additional state or county privilege tax. Upon finding that the applicant meets all requirements for the license, the commissioner shall issue the license for a period not to exceed one (1) year.

(c) An individual may apply for more than one of the three types of well driller's licenses and may apply for a pump installer and/or water treatment installer license by applying for all licenses desired and paying the required fees.

(d) It is unlawful:

(1) to engage in the business of installing, removing or repairing geothermal wells or water well pumps or drop lines in geothermal wells or water wells; or

(2) to engage in the business of repairing, servicing or installing filters and water treatment devices on geothermal wells or water wells; except if it is done by a licensed individual.

(e) In order to obtain a license to install pumps or to install filters and treatment devices in geothermal wells or water wells, an individual shall annually file with the commissioner, on or before July 31 of each year, an application form made available by the commissioner, with the following information:

(1) The name under which the individual is doing business in this state;

(2) The office address or principal place of business of the individual; and

(3) Such other information as the commissioner may deem reasonable and necessary.

(f) Each applicant for a pump installer and/or a water treatment installer license, shall submit the required annual fee to the commissioner with the application. The application fee for each of these annual licenses shall be fifty dollars (\$50.00). Upon finding that the applicant meets all requirements for the license, the commissioner shall issue the license for a period not to exceed one year.

(g) Each licensee individually shall obtain continuing education credits, as determined by the commissioner and established by rules promulgated under this part, during each twelve-month period beginning on August 1, 2003.

(h) Reciprocity to well drillers and installers licensed in other states will be granted by the department, provided the applicant meets the requirements as required under this part.

SECTION 14. Tennessee Code Annotated, Section 69-11-103, is amended by deleting it and substituting instead the following:

(a) It is unlawful, and a violation of this part, for any person to drill a water well or geothermal well within the state of Tennessee, unless the following provisions are complied with:

(1) The driller of such well shall be licensed as provided in §69-11-102;

(2) The driller shall, at all times during the drilling of such well, keep posted in a conspicuous location, at or near the well being drilled, a copy of the appropriate license; and

(3) The driller of a water well or geothermal well, after the completion of the drilling of each well, shall deliver to the commissioner upon forms to be supplied by the commissioner, a "report of well driller" by a date determined by the commissioner to contain at least the following information:

- (A) The name and address of the well owner;
- (B) The location of the well;
- (C) The date upon which the well was completed;
- and
- (D) The "log" of the well.

(b) The commissioner shall have the authority to inspect, and approve or disapprove based on the requirements of this part, the drilling of any water well or geothermal well, the installation and repair of well pumps or water treatment devices, the installation and repair of all conduits, valves, or other appurtenances which convey water between the well and any building, structure or any water discharge point.

(c) All water wells and geothermal wells shall be drilled, dug, constructed, altered, maintained, and closed in accordance with all standards and requirements established by rules promulgated under this part.

SECTION 15. Tennessee Code Annotated Section 69-11-104 is amended by deleting the section and substituting instead the following new section:

(a) It shall be unlawful to operate or install any equipment in the drilling of geothermal, water or monitoring wells unless a licensed individual, or an operator designated by the licensee, supervises the activity.

(b) It shall be unlawful to install any pumps or water treatment devices in geothermal wells and water wells unless a licensed individual, or an operator designated by the licensee, supervises the activity.

SECTION 16. Tennessee Code Annotated, Section 69-11-105(a), is amended by deleting the language before the colon and substituting instead the following:

(a) A license or operator card may be refused, or a license or operator card duly issued may be suspended or revoked, or the renewal thereof refused by the commissioner, upon a finding that the applicant or holder:

SECTION 17. Tennessee Code Annotated, Section 69-11-105(a), is further amended by adding the following new, appropriately designated subsections:

( ) Has failed to comply with an order or assessment issued by the commissioner;

( ) Has been convicted of a felony;

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SECTION 18. Tennessee Code Annotated, Section, 69-11-106, is amended by adding the following new, appropriately designated subsections:

( ) Establish standards for installation of pumps and treatment devices, for the proper drilling, construction, maintenance, and closure by well drillers including, but not limited to, the casing, perforating, plugging, cementing, and capping of wells and for maintenance of water wells and geothermal wells by well owners;

( ) Require corrective action , including closure, of all inactive wells or improperly constructed or maintained wells that have caused or will cause harm to ground water.

SECTION 19. Tennessee Code Annotated, Title 69, Chapter 11, Part 1, is amended by adding a new, appropriately designated section as follows, redesignating existing sections as necessary:

( ) Notice of Intent to Drill. No water well or geothermal well shall be drilled unless the well owner or the well driller, on behalf of the well owner, has previously notified the commissioner of the intent to drill a well in the manner prescribed by the commissioner. The notice of intent to drill shall include, at a minimum, the name and address of the owner and the location of the well. The fee for the notification shall be submitted by the well owner or the well driller in accordance with the requirements of the rules but no later than the report of well driller pursuant to T.C.A. §69-11-103.

SECTION 20. Tennessee Code Annotated, Section 69-11-107(a)(1), is amended by deleting the phrase "including the commissioner of environment and conservation and the director of water management" and inserting in lieu thereof the phrase "including the commissioner and the director of water supply or their designees."

SECTION 21. Tennessee Code Annotated, Section 69-11-108, is amended by deleting it in its entirety.

SECTION 22. Tennessee Code Annotated, Title 69, Chapter 11, is amended by deleting Section 69-11-109 and substituting instead the following: All funds received by the commissioner under this part shall be used exclusively for the purpose of funding the operation, management and enforcement of the programs under this part.

SECTION 23. Tennessee Code Annotated, Section 69-11-110, is amended by adding the following as a new, appropriately designated subsection:

( ) Any person who:

(1) causes any substance to enter a well with the intent to cause harm; or

(2) intentionally assaults, injures or harms a state employee performing duties authorized by this part, commits a Class E felony. Each day such violation occurs constitutes a separate punishable offense.

SECTION 24. Tennessee Code Annotated, Title 69, Chapter 11, Part 1, is amended by adding a new, appropriately designated section as follows:

(a) Any municipality which has adopted home rule under Article 11 Section 9 of the Tennessee Constitution or any county operating under a county charter form of government may enact, by ordinance or resolution respectively, enforceable requirements not less stringent than the standards adopted by the state pursuant to this part.

(b) Any such municipality which has adopted home rule under Article 11 Section 9 of the Tennessee Constitution, any county operating under a county charter form of government or any political subdivision thereunder may be exempted from the provisions of this part except for the well driller licensing and license fee provisions that shall remain as a state function. Any such municipality, county or political subdivision desiring to be exempted from the provisions of this part may file a petition for certificate of exemption with the commissioner. The commissioner shall grant or deny the petition.

(c) The certificate of exemption shall be granted if the commissioner determines that the home rule municipality, or county operating under a county charter form of government, has enacted provisions not less stringent than the provisions of this part and that such enactments are being, or will be, adequately enforced.

(d) The commissioner may grant a certificate of exemption in whole or in part, may prescribe a time schedule for various parts of an exemption to become effective, and may make a certificate of exemption conditional or provisional as is deemed appropriate.

(e) In granting any certificate of exemption, there is reserved to the state the right to initiate proceedings to enforce any applicable resolution, ordinance or regulation of the municipality or county should it fail to obtain compliance therewith. Such proceedings shall be the same as for enforcement of any duly promulgated rule or regulation.

(f) In granting any certificate of exemption, the exemption is to be strictly construed as limited to the language of the exemption. No power or authority which is not expressly stated in the certificate of exemption may be implied.

(g) The department shall frequently determine whether or not any exempted municipality, county or political subdivision meets the terms of the exemption granted and continues to comply with the provisions of this section. If a determination is made that such municipality, county or political subdivision does not meet the terms of the exemption granted or does not comply with the provisions of this section, the commissioner, upon reasonable notice to the municipality, county or political subdivision, may suspend the exemption in whole or in part until such time as the municipality, county or political subdivision complies with the state standards.

(h) All certificates of exemption, including those expiring on the above date, shall be for a fixed term not to exceed five (5) years.

SECTION 25. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 26. This act shall take effect upon becoming a law, the public welfare requiring it.

Rep. Fitzhugh requested that House Bill No. 3148 be moved down 5 places on the Calendar.

**House Bill No. 3043** -- Insurance, Health, Accident - Revises requirements concerning utilization review of mental illness and chemical dependency treatment. Amends TCA Title 56, by \*Shepard. (\*SB2390 by \*Graves)

Rep. Shepard moved that House Bill No. 3043 be passed on third and final consideration.

On motion, Rep. Pruitt withdrew Health and Human Resources Committee Amendment No. 1.

Rep. Kisber moved adoption of Finance, Ways and Means Committee Amendment No. 1 as House Amendment No. 2 as follows:

#### **Amendment No. 2**

AMEND House Bill No. 3043 by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 56-6-702, is amended by deleting subsections (4) and (5) and replaced by the following new subsections:

(4) Improve communications and knowledge of benefit plan requirements among all parties concerned before expenses are incurred; and to

(5) Ensure that utilization review agents and procedures maintain and safeguard the confidentiality of all health-related records, especially mental health and chemical dependency disorders, in accordance with applicable laws and requirements of nationally recognized review accreditation bodies such as the Health Insurance Portability and Accountability Act (HIPAA) and the Utilization Review Accreditation Commission (URAC).

SECTION 2. Tennessee Code Annotated, Section 56-6-704(a), is amended by adding the following new sentence at the end of the subsection:

Utilization review programs for the mental health and chemical dependency care must comply with the most recent requirements of nationally recognized utilization review accrediting bodies (i.e., URAC) if such agent is accredited and with all final security and privacy rules on protected health information as defined in the Health Insurance Portability and Accountability Act (HIPAA). However, nothing in this act shall be construed to require compliance with the final security and privacy rules of HIPAA prior to the compliance dates set by the Secretary Department of Health and Human Services.

SECTION 3. Tennessee Code Annotated, Section 56-6-704(b), is amended by deleting the word "and" at the end of subdivision (2), deleting the period (.) at the end of subdivision (3) and substituting instead the language "; and", and by adding a new subdivision as follows:

(4) Utilization review programs for mental health and chemical dependency care shall make available to a provider submitting patient utilization review information a description of utilization review standards and procedures applicable to that provider.

SECTION 4. Tennessee Code Annotated, Section 56-6-705(a)(4)(A), is amended by adding the following new sentence at the end of the item:

For mental health and chemical dependency care, the person performing the utilization review in these appeal determinations must be both licensed at the independent practice level and in an appropriate mental health or chemical dependency discipline like that of the provider seeking authorization for the care denied.

SECTION 5. Tennessee Code Annotated, Section 56-6-705(a), is amended by deleting the word "and" at the end of subdivision (8), deleting the period (.) at the end of subdivision (9) and by substituting instead the language "; and", and by adding a new subdivision as follows:

(10)(A) For outpatient mental health and chemical dependency care, the patient must register pursuant to the requirements of the policy or contract. After such registration, the patient shall be approved for at least seven (7) visits to a particular provider, except as otherwise provided herein.

(B) Initial utilization review for such outpatient mental health or chemical dependency patients, shall be limited to no more than a two (2) page form to be submitted via facsimile or internet and pursuant to state and federal privacy rules, security rules, and any final rules issued pursuant to Health Insurance Portability and Accountability Act (HIPAA). After November 1, 2005, such form shall be restricted to a single page or sooner if required by the Health Insurance Portability and Accountability Act (HIPAA). After November 1, 2005, the provider may no longer submit the form via fax but is required to use the Internet to submit necessary information if the utilization review agent so requires. In the event that the utilization review agent elects to restrict such submissions to the Internet, provisions must be made to transmit information via fax in the event of computer malfunction.

(C) After the initial utilization review, additional information or follow-up utilization review shall be limited to no more than eighteen percent (18%) of the total number of mental health and chemical dependency patients reviews performed by the utilization review agent for the previous year adjusted for the difference of covered lives in this state for the present calendar year or as otherwise required by URAC. Such eighteen percent (18%) limit shall not apply to utilization review applicable to at risk populations, patients seen more than two (2) visits a week and patients for which substance abuse is reported or suspected. Calls from reviews to providers for appointment follow-up calls or for the credentialing process shall also not be subject to the eighteen percent (18%) limit.

(D) After utilization review as provided above, patients shall be authorized for at least seven (7) additional visits or as otherwise recommended by the treatment plan.

(E) Nothing in this act shall be construed to require compliance with the final security and privacy rules of HIPAA prior to the compliance dates set by the secretary of the department of health and human services.

(F) Nothing herein shall affect the policy or contract benefits nor shall it affect the Mental Health Parity Act, Tennessee Code Annotated, Sections 56-7-2601 and 56-7-2360.

SECTION 6. Nothing in this act shall apply to the TennCare Program.



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SECTION 7. This act shall take effect on November 1, 2002, the public welfare requiring it.

On motion, Finance, Ways and Means Committee Amendment No. 1 as House Amendment No. 2 was adopted.

Rep. Shepard moved that **House Bill No. 3043**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....96  
Noes .....0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 96.

A motion to reconsider was tabled.

**"House Joint Resolution No. 770** -- Naming and Designating - "Major General Dan Wood National Guard Armory" in Henderson. by \*McDaniel.

Rep. McDaniel moved adoption of House Joint Resolution No. 770.

Rep. Kisber moved adoption of Finance, Ways and Means Committee Amendment No. 1 as follows:

**Amendment No. 1**

AMEND House Joint Resolution No. 770 by adding the following new resolving clause immediately preceding the last resolving clause:

BE IT FURTHER RESOLVED, That this resolution shall become operative only if the costs of naming such armory, including the erection of signs, is paid to the department of the military from non-state funds within one (1) year of the effective date of this act or if the city of Henderson manufactures such signs in accordance with the provisions of this clause. Such payment shall be made prior to any expenditure by the state for the manufacture or installation of such signs. The department shall return any unused portion of the estimated cost to the persons or entity paying for such sign within thirty (30) days of the erection of such sign. If the actual cost exceeds the estimated cost, an amount equal to the difference in such costs shall be remitted to the department in non-state funds within thirty (30) days of receiving an itemized invoice of the actual cost from the department. Henderson may manufacture and erect such signs provided that such signs are manufactured and erected pursuant to state and federal guidelines and approved by the department.

On motion, Finance, Ways and Means Committee Amendment No. 1 was adopted.

Rep. McDaniel moved that **House Joint Resolution No. 770**, as amended, be adopted, which motion prevailed by the following vote:

Ayes .....	97
Noes .....	0
Present and not voting .....	1

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 97.

Representatives present and not voting were: Brooks -- 1.

A motion to reconsider was tabled.

#### CHAIR TO SPEAKER

Mr. Speaker Naifeh resumed the Chair.

**RULES SUSPENDED**

Rep. Armstrong moved that the rules be suspended for the purpose of introducing House Joint Resolution No. 1079 out of order, which motion prevailed.

**House Joint Resolution No. 1079** -- Memorials, Death - Robert Cleave Hurd. by \*Armstrong.

On motion, the rules were suspended for the immediate consideration of the resolution.

Rep. Bowers moved that all members voting aye on House Joint Resolution No. 1079 be added as sponsors, which motion prevailed.

On motion of Rep. Armstrong, the resolution was adopted by the following vote:

Ayes .....	97
Noes .....	0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 97.

A motion to reconsider was tabled.

**REGULAR CALENDAR, CONTINUED**

**\*House Bill No. 1416** -- Auctions and Auctioneers - Increases timing of deadline from 24 hours to 48 hours prior to auction when auctioneer must, upon request, furnish to chief of police or sheriff list of all properties to be sold. by \*Rinks, \*McDaniel. (SB1694 by \*Clabough, \*Atchley)

Rep. Rinks moved that House Bill No. 1416 be passed on third and final consideration.

Rep. West moved adoption of Consumer and Employee Affairs Committee Amendment No. 1 as follows:

**Amendment No. 1**

AMEND House Bill No. 1416 By deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated 62-43-113(b)(2) is amended by deleting the language in this subdivision in its entirety and by substituting instead the following new language:

(2) Pay state unemployment premiums as required by law.

(A) METHOD OF REPORTING AND PAYMENT. Effective the calendar quarter beginning January 1, 2003, a licensed staff leasing company or staff leasing group shall keep separate records and submit separate state unemployment insurance wage and premium reports with payments pursuant to Title 50, Chapter 7, Part 4, to report the leased employees of each client by using the client's state employer account number as provided for in subdivision (i) and using the premium rate based on the aggregate reserve ratio of the staff leasing company as provided in subdivision (ii).

(i) CLIENT ACCOUNT NUMBER. Each staff leasing company having one or more leased employees of a client in Tennessee shall file an application for an account number for each client having one or more leased employees in Tennessee. Such application shall include:

(a) the aggregate state number assigned to the staff leasing company and the name and address and phone number of the staff leasing company,

(b) the name, physical address and phone number of the client,

(c) the name of the client's owner, partners, corporate officers, limited liability company members and managers (if board managed) or general partners,

(d) the federal identification number of the client,

(e) the signature of the client's principal(s) or attorney in fact,

(f) a brief description of the client's major business activity, listing any products produced or sold, or service provided, and

(g) any other information which may be required by the commissioner of the department of labor and workforce development.

(h) The staff leasing company must notify the department of labor and workforce development in writing of any additions or deletions of clients during the quarter in which such changes occur.

(i) All information furnished to the department of labor and workforce development under this section shall be treated as confidential information as provided in T.C.A. 50-7-701.

(ii) DETERMINATION OF THE AGGREGATE RESERVE RATIO OF A STAFF LEASING COMPANY. There shall be two (2) methods used in determining the aggregate reserve ratio of a staff leasing company:

(a) the aggregate reserve ratio of a staff leasing company shall be determined by: totaling all the state unemployment premiums paid on both the state taxable wages of a staff leasing company and on the state taxable wages of all the clients of such staff leasing company for all years during which the staff leasing company has been subject to Title 50, Chapter 7, and all the years each individual client has been a client of the staff leasing company as of the computation date, as provided in Section 50-7-403(k)(1), and subtracting therefrom the total of all benefits charged to the aggregate reserve account of the staff leasing company for all years, including the benefits charged resulting from benefits paid to leased employees of each individual client for all the years each client has been a client of the staff leasing company as of the computation date. The difference shall be divided by the average taxable payroll for the three most recently completed calendar years, ending on the computation date, of the staff leasing company, plus the average taxable payroll of each client for that portion of the three (3) year period during which such client was a client of the staff leasing company. The resulting quotient will be the aggregate reserve ratio of the staff leasing company beginning the July 1 following the computation date. The employer premium rate for the staff leasing company shall be determined by matching its aggregate reserve ratio to the appropriate premium rate table pursuant to Title 50, Chapter 7 or

(b) in cases where the aggregate reserve account of a staff leasing company has not been chargeable with benefits for thirty-six (36) consecutive months ending on the computation date, such staff leasing company will be assigned the new employer premium rate based upon the reserve ratio of such staff leasing company's Standard Industrial Classification (SIC) Code as determined pursuant to Section 50-7-403(b)(1)(B).

(c) A staff leasing company shall not be considered a successor employer, within the meaning to Title 50, Chapter 7, to any client and shall not acquire the experience history of any client with whom the staff leasing company has contracted. The client, upon terminating its relationship with the staff leasing company, shall not be considered a successor employer, within the meaning of Title 50, Chapter 7, to the staff leasing company and shall not acquire any portion of the experience history of the aggregate reserve account of the staff leasing company.

(B) JOINT AND SEVERAL LIABILITY. A client shall be jointly and severally liable with a staff leasing company for state unemployment premiums for each of such client's leased employees; provided however, a client shall be relieved of joint and several liability for state unemployment premiums if the staff leasing company has posted a corporate surety bond, as described herein, with the Administrator of the Division of Employment Security of the Tennessee Department of Labor and Workforce Development in the amount of \$100,000 for so long as said bond remains in force. Such corporate surety bond must be in form and content approved by the Commissioner of the Department of Labor and Workforce Development as evidenced by said Commissioner's written consent thereto, and must be issued by an organization currently licensed and authorized to issue such bond in the State of Tennessee. The bond shall be conditioned for the benefit of the Commissioner of the Department of Labor and Workforce Development, who may enforce said bond to collect unpaid unemployment insurance premiums, interest and penalties owed by the staff leasing company pursuant to Title 50, Chapter 7, Part 4. Any surety is required to provide the Administrator of the Division of Employment Security of the Department of Labor and Workforce Development sixty (60) days' notice of cancellation of the bond. If after three (3) full calendar years, throughout which a staff leasing company has paid all unemployment insurance premiums due in a timely manner and has a positive unemployment insurance reserve account, the bond may be reduced to an amount not less than \$35,000 as determined and approved by the Administrator of the Division of Employment Security conditioned upon the total taxable payroll for the previous calendar year and other factors deemed relevant by the Administrator. Any reduced bond shall be subject to review on no less than an annual basis by the Administrator of the Division of Employment Security, who may adjust the required amount of the bond as is deemed appropriate.

SECTION 2. This act shall take effect upon becoming law, the public welfare requiring it.

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On motion, Consumer and Employee Affairs Committee Amendment No. 1 was adopted.

Rep. Rinks moved that **House Bill No. 1416**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....95

Noes .....0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 95.

A motion to reconsider was tabled.

**\*House Bill No. 2901** -- Teachers, Principals and School Personnel - Revises supplement pay provisions under career ladder program; rewrites provisions regarding additional duties of career level teachers; empowers department of education to allow LEA to develop plans for use of extended contract money on enrichment and remediation for students performing below proficiency. - TCA Title 49, Chapter 5, Parts 50 and 52. by \*Scroggs. (SB2948 by \*Atchley, \*McNally)

Rep. Scroggs moved that House Bill No. 2901 be reset for the Regular Calendar on May 22, 2002, which motion prevailed.

**\*House Bill No. 2939** -- Cosmetology - Creates separate license for hair wrapping stylists; specifies required training for hair wrapping stylists. Amends TCA Title 62, Chapter 4, Part 1. by \*Montgomery. (SB3005 by \*Clabough)

Rep. Montgomery moved that House Bill No. 2939 be passed on third and final consideration.

Rep. Armstrong moved adoption of Health and Human Resources Committee Amendment No. 1 as follows:

### Amendment No. 1

AMEND House Bill No. 2939 by deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 62-4-102(a), is amended by adding a new subdivision thereto, as follows:

( ) "Hair wrapping" means the wrapping of manufactured materials around a strand or strands of human hair, for compensation, without cutting, coloring, permanent waving, relaxing, removing, weaving, chemically treating, braiding, using hair extensions, or performing any other service otherwise covered by this chapter;

SECTION 2. Tennessee Code Annotated, Section 62-4-109(a), is amended by deleting the word "and" at the end of subdivision (4); by deleting the period at the end of subdivision (5) and substituting instead a semi-colon and the word "and"; and by adding the following language as a new subdivision to be designated as follows:

(6) Any person who engages in hair wrapping; provided, the person posts a notice at the place of business indicating that the person is not licensed by the state board of cosmetology, and provided further that the person uses disposable instruments, or implements that are sanitized in a disinfectant approved for hospital use or approved by the federal Environmental Protection Agency.

SECTION 3. This act shall take effect immediately upon becoming a law, the public welfare requiring it.

On motion, Health and Human Resources Committee Amendment No. 1 was adopted.

Rep. Armstrong moved adoption of Health and Human Resources Committee Amendment No. 3 as House Amendment No. 2 as follows:

**Amendment No. 2**

AMEND House Bill No. 2939 By adding the following language at the end of subdivision (6) of the amendatory language of Section 2, as amended by House Health and Human Resources Committee Amendment 1:

Before engaging in hair wrapping, a person shall attend sixteen (16) hours of training provided by a licensed school of cosmetology and shall receive a certificate indicating attendance at such training. The certificate shall be retained and displayed on request. The training shall consist of eight (8) hours concerning health and hygiene issues and eight (8) hours concerning relevant state law.

On motion, Health and Human Resources Committee Amendment No. 3 as House Amendment No. 2 was adopted.

Rep. Montgomery moved that **House Bill No. 2939**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....	62
Noes .....	23
Present and not voting .....	8



**WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY**

Representatives voting aye were: Armstrong, Baird, Beavers, Bittle, Black, Boyer, Briley, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Dyer), Curtiss, Davis (Washington), Dunn, Ferguson, Ford, Fowlkes, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Harwell, Johnson, Kent, Kernell, Maddox, McCord, McDaniel, McKee, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Pinion, Pruitt, Rhinehart, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shepard, Stanley, Tidwell, Tindell, Todd, Turner (Hamilton), Vincent, Walker, Westmoreland, Winningham -- 62.

Representatives voting no were: Arriola, Bone, Bowers, Brown, Cole (Carter), Cooper, Davidson, DeBerry J, DeBerry L, Fitzhugh, Fraley, Jones U, Langster, Lewis, McDonald, Miller, Phillips, Shaw, Turner (Shelby), West, White, Windle, Mr. Speaker Naifeh -- 23.

Representatives present and not voting were: Head, Hood, Kisber, McMillan, Pleasant, Ridgeway, Towns, Wood -- 8.

A motion to reconsider was tabled.

**\*House Bill No. 3148** -- Water - Enacts "Tennessee Water Resources Information Act." - Chapters 8 and 11 of Title 69 and Section 66-11-210 of the TCA. by \*McCord. (SB3076 by \*Ramsey)

Further consideration of House Bill No. 3148 previously considered on today's Calendar at which time the House was on the motion to adopt Amendment(s) No(s). 1.

Rep. McCord moved that House Bill No. 3148 be passed on third and final consideration.

On motion, Conservation and Environment Committee Amendment No. 1 was adopted.

Rep. Sands moved adoption of Amendment No. 2 as follows:

**Amendment No. 2**

AMEND House Bill No. 3148 by deleting Section 23 of the bill as amended by House Conservation and Environment Committee Amendment No. 1 (HA1085).

On motion, Amendment No. 2 was adopted.

Rep. McCord requested that House Bill No. 3148 be moved down 5 places on the Calendar.

**House Bill No. 2755** -- Sunset Laws - Tennessee families community resource board, June 30, 2008; adds "families" to name of board. Amends TCA Title 4, Chapter 29 and Title 41, Chapter 10. by \*Kernell, \*Brooks, \*Cooper B. (\*SB2092 by \*Harper, \*Burchett, \*Trail)

On motion, House Bill No. 2755 was made to conform with **Senate Bill No. 2092**; the Senate Bill was substituted for the House Bill.

Rep. Kernell moved that Senate Bill No. 2092 be passed on third and final consideration.

Rep. Brooks moved adoption of Government Operations Committee Amendment No. 1 as follows:

**Amendment No. 1**

AMEND Senate Bill No. 2092 By deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 4-29-223(a), is amended by deleting item (57) in its entirety.

SECTION 2. Tennessee Code Annotated, Section 4-29-229(a), is amended by adding a new item thereto, as follows:

( ) Tennessee community resource board, created by § 41-10-105;

SECTION 3. This act shall take effect July 1, 2002, the public welfare requiring it.

On motion, Government Operations Committee Amendment No. 1 was adopted.

Rep. Kernell moved that **Senate Bill No. 2092**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....	97
Noes .....	0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 97.

A motion to reconsider was tabled.

**House Bill No. 1106** -- Funeral Directors and Embalmers - Exempts sale of funeral merchandise from practice of funeral directing; requires funeral director to disclose certain information concerning sale of funeral merchandise. Amends TCA Title 62, Chapter 5. by \*Lewis, \*Odom, \*Garrett, \*Givens, \*Ferguson. (\*SB181 by \*Graves, \*Burchett)

Rep. Lewis moved that House Bill No. 1106 be passed on third and final consideration.

Rep. Rhinehart moved adoption of Commerce Committee Amendment No. 1 as follows:

**Amendment No. 1**

AMEND House Bill No. 1106 by deleting all of the language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 62-5-101, is amended by adding the following new appropriately designated subsections:

( ) "Authorizing Agent(s)" means a person or persons legally entitled to authorize the cremation of a dead human body or body parts. This term shall not include a funeral director or funeral establishment.

( ) "Cremation" means the heating process by which a human body or body parts are reduced to bone fragments through combustion and evaporation.

( ) "Crematory" means the building or portion of a building that houses one (1) or more cremation chambers used for the reduction of body parts or bodies of deceased persons to cremated remains and the holding facility. "Crematory" includes crematorium.

SECTION 2. Tennessee Code Annotated, Title 62, Chapter 5, Part 1, is amended by adding the following language as a new appropriately designated sections:

SECTION \_\_\_\_\_. (a) A funeral director shall utilize the services only of licensed crematory facilities.

(b) If a funeral director utilizes the services of a crematory outside of Tennessee, the crematory must be a licensed facility of the state in which such crematory is located.

(c) Prior to utilizing a crematory, the funeral director shall:

(1) Determine that the crematory is currently licensed in Tennessee or, if an out-of-state crematory, the state in which it is located;

(2) Obtain and maintain a copy of such crematory's current license and further maintain a copy of the results of the latest inspection of the crematory by the state in which the facility is located, if such state inspects crematories; and

(3) Deliver a written disclosure to the Authorizing Agent or Agents. Such written disclosure shall, at a minimum:

(A) Include the name, telephone number, and address of the in-state or out-of-state crematory;

(B) Provide for the specific consent of the Authorizing Agent or Agents for the use of such in-state or out-of-state crematory;

(C) Be signed and dated by the funeral director and the Authorizing Agent or Agents; and

(D) Be retained by the Tennessee funeral director at a licensed Tennessee funeral establishment, with a copy provided to the Authorizing Agent or Agents.

(d) A violation of this section shall be punishable only by assessment of a civil penalty for each use of an unlicensed crematory to be imposed by the commissioner after a hearing held in accordance with §62-5-105, notwithstanding the provisions of §62-5-103.

(e)(1) The funeral director shall not be liable for damages in a civil action for any error, inaccuracy or omission of any information delivered pursuant to this section if:

(A) The error, inaccuracy or omission was based upon information provided by public agencies or by other individuals or entities providing information that is required to be disclosed pursuant to this section; and

(B) The funeral director was not grossly negligent in obtaining the information from a third party and transmitting such information as required under this section.

(2) It is an affirmative defense in any such civil action that the funeral director complied with the requirements of this section upon submitting to the court a copy of the signed consent form and the license and inspection of the in-state or out-of-state crematory used by the funeral director for the cremation of the dead human body or body parts which is the subject of the civil action.

SECTION 3. Tennessee Code Annotated, 62-5-317(b), is amended by adding the following language as a new appropriately designated paragraph:

( ) Failure to comply with any of the provisions of this chapter or any rule or regulation promulgated or adopted by the board.

SECTION 4. For the purpose of promulgating rules and regulations, this act shall take effect upon becoming law. For all other purposes it shall take effect July 1, 2002 the public welfare requiring it.

On motion, Commerce Committee Amendment No. 1 was adopted.

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Rep. Lewis moved that **House Bill No. 1106**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....98  
Noes .....0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 98.

A motion to reconsider was tabled.

**House Bill No. 2434** -- Planning, Public - Requires planning commissioners, professional planners, planning commission members, board of zoning appeals members, building commissioners, and other officials who advise planning commission or board of zoning appeals to attend training and continuing education. Amends TCA Title 13, Chapter 3; Title 13, Chapter 4 and Title 13, Chapter 7. by \*Todd. (\*SB2412 by \*Norris)

On motion, House Bill No. 2434 was made to conform with **Senate Bill No. 2412**; the Senate Bill was substituted for the House Bill.

Rep. Todd moved that Senate Bill No. 2412 be passed on third and final consideration.

Rep. U. Jones moved adoption of State and Local Government Committee Amendment No. 1 as follows:

**Amendment No. 1**

AMEND Senate Bill No. 2412 by deleting subdivision (c)(5) in the amendatory language of SECTION 6 of the bill and by substituting instead the following:

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(5) The subjects for the training and continuing education required by subdivisions (1) and (2) herein shall include, but not be limited to, the following: land use planning; zoning; flood plain management; transportation; community facilities; ethics; public utilities; wireless telecommunications facilities; parliamentary procedure; public hearing procedure; land use law; natural resources and agricultural land conservation; economic development; housing; public buildings; land subdivision; and powers and duties of the board of zoning appeals. Other topics reasonably related to the duties of the board of zoning appeals and the building commissioner or other administrative officials whose duties include advising the board of zoning appeals may be approved by majority vote of the board of zoning appeals prior to December 31 of the year for which credit is sought.

On motion, State and Local Government Committee Amendment No. 1 was adopted.

On motion, Rep. U. Jones withdrew State and Local Government Committee Amendment No. 2.

Rep. Kisber moved adoption of Finance, Ways and Means Committee Amendment No. 1 as House Amendment No. 3 as follows:

**Amendment No. 3**

AMEND Senate Bill No. 2412 by deleting House State and Local Government Committee Amendment No. 2 (HA0935) in its entirety and by substituting instead the following language:

AMEND Senate Bill No. 2412 / House Bill No. 2434 by inserting the following language as a new subdivision (9) in the amendatory language of Section 2:

(9) The legislative body of a county in a single county regional planning commission, the legislative bodies of the counties in a multiple county planning commission or the legislative bodies of the county and the municipality in a joint municipal and county planning commission may, at any time, opt in to the provisions of this subsection by passage of a resolution or ordinance, as appropriate; provided that for a multiple county planning commission or joint municipal/county planning commission, all governmental entities included in such multiple or joint planning commission must pass the resolution or ordinance in order to opt in to this provision. Further, any such legislative bodies that have opted in may, at a later date, opt out by passage of a resolution or ordinance in the same manner required to opt in.

AND FURTHER AMEND by inserting the following language as a new subdivision (9) in the amendatory language of Section 3:

(9) The legislative body of the county may, at any time, opt in to the provisions of this subsection by passage of a resolution. Further any such legislative body that has opted in may, at a later date, opt out by passage of a resolution.

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AND FURTHER AMEND by inserting the following language as a new subdivision (9) in the amendatory language of Section 4:

(9) The legislative body of the municipality may, at any time, opt in to the provisions of this subsection by passage of an ordinance. Further any such legislative body that has opted in may, at a later date, opt out by passage of an ordinance.

AND FURTHER AMEND by inserting the following language as a new subdivision (9) in the amendatory language of Section 5:

(9) The legislative body of the county may, at any time, opt in to the provisions of this subsection by passage of a resolution. Further any such legislative body that has opted in may, at a later date, opt out by passage of a resolution.

AND FURTHER AMEND by inserting the following language as a new subdivision (9) in the amendatory language of Section 6:

(9) The legislative body of the municipality may, at any time, opt in to the provisions of this subsection by passage of an ordinance. Further any such legislative body that has opted in may, at a later date, opt out by passage of an ordinance.

On motion, Finance, Ways and Means Committee Amendment No. 1 as House Amendment No. 3 was adopted.

Rep. Todd moved that **Senate Bill No. 2412**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....	91
Noes .....	2
Present and not voting .....	3

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Boyer, Briley, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odum, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 91.

Representatives voting no were: Sharp, Vincent -- 2.

Representatives present and not voting were: Bowers, Brooks, Brown -- 3.

A motion to reconsider was tabled.

**WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY**

**\*House Bill No. 1404** -- Probation and Parole - Enacts "Interstate Compact for Supervision of Adult Offenders." Amends TCA 40-28-401 through 40-28-409. by \*Todd, \*McDaniel, \*Hargett. (SB1682 by \*Fowler, \*Clabough)

On motion, House Bill No. 1404 was made to conform with **Senate Bill No. 1682**; the Senate Bill was substituted for the House Bill.

Rep. Todd moved that Senate Bill No. 1682 be passed on third and final consideration.

Rep. Kisber moved adoption of Finance, Ways and Means Committee Amendment No. 1 as follows:

**Amendment No. 1**

AMEND House Bill No. 1404 by deleting Section 4 of the printed bill and by substituting instead the following language:

SECTION 4. Any costs incurred in implementing the provisions of this act shall be funded from within existing resources of the board of probation and parole.

SECTION 5. This act shall take effect the later of July 1, 2002, or upon enactment, by no less than thirty-five (35) states, in substantially the form set out in Section 2 of this act.

On motion, Finance, Ways and Means Committee Amendment No. 1 was adopted.

Rep. Todd moved that **Senate Bill No. 1682**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....97  
Noes .....0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 97.

A motion to reconsider was tabled.



**\*House Bill No. 2389** -- Taxes, Business - Authorize municipal police officers, as well as sheriff, to serve and execute distress warrants for unpaid business taxes. Amends TCA Section 67-4-215. by \*Bunch. (SB2436 by \*Miller J)

On motion, House Bill No. 2389 was made to conform with **Senate Bill No. 2436**; the Senate Bill was substituted for the House Bill.

Rep. Bunch moved that Senate Bill No. 2436 be passed on third and final consideration.

On motion, Rep. Buck withdrew Judiciary Committee Amendment No. 1.

Rep. Bunch moved adoption of Amendment No. 2 as follows:

**Amendment No. 2**

AMEND Senate Bill No. 2436 by deleting Section 1 in its entirety and by substituting instead the following language:

SECTION 1. Tennessee Code Annotated, Section 67-4-215, is amended by adding the following as a new, appropriately designated subsection:

(e) A municipal governing body of any municipality located in any county having a population of not less than eighty-seven thousand nine hundred (87,900) nor more than eighty-eight thousand (88,000), according to the 2000 federal census or any subsequent federal census, may by ordinance confer upon POST-certified police officers employed by such municipality the authority to execute distress warrants pursuant to the provisions of this section; provided, that such authority shall be limited to distress warrants issued for business taxes levied by such municipality.

On motion, Amendment No. 2 was adopted.

Rep. Bunch moved that **Senate Bill No. 2436**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....	95
Noes .....	1
Present and not voting .....	1

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Shelby), Turner (Davidson), Vincent, West, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 95.

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Representatives voting no were: Turner (Hamilton) -- 1.

Representatives present and not voting were: Walker -- 1.

A motion to reconsider was tabled.

**\*House Bill No. 3148** -- Water - Enacts "Tennessee Water Resources Information Act." - Chapters 8 and 11 of Title 69 and Section 66-11-210 of the TCA. by \*McCord. (SB3076 by \*Ramsey)

Further consideration of House Bill No. 3148 previously considered on today's Calendar at which time the House adopted Amendment(s) No(s). 1 and 2.

Rep. McCord moved that **House Bill No. 3148**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....97  
Noes.....0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 97.

A motion to reconsider was tabled.

**House Bill No. 2924** -- Taxes, Litigation - Imposes penalties on court clerks for failure to collect tax. Amends TCA Section 67-4-605. by \*DeBerry J. (\*SB2334 by \*Dixon, \*Person)

Further consideration of House Bill No. 2924 previously considered on today's Calendar.

**BILL HELD ON DESK**

Rep. J. DeBerry moved that House Bill No. 2924 be held on the Clerk's desk, which motion prevailed.

REGULAR CALENDAR, CONTINUED

**House Bill No. 2510** -- Eminent Domain - Excludes redevelopment projects and redevelopment plans from prohibition on housing authority to take private property in urban renewal area by eminent domain for purposes of resale. Amends TCA Title 13, Chapter 20, by \*Hargrove. (\*SB2417 by \*Haynes)

Further consideration of House Bill No. 2510 previously considered on today's Calendar at which time the House withdrew Amendment(s) No(s). 1.

Rep. Hargrove moved that House Bill No. 2510 be passed on third and final consideration.

Rep. Hargrove moved that Amendment No. 2 be withdrawn, which motion prevailed.

Rep. Hargrove moved adoption of Amendment No. 3 as follows:

**Amendment No. 3**

AMEND House Bill No. 2510 by deleting all provisions of the bill following the enacting clause and substituting the following:

SECTION 1. Tennessee Code Annotated, Section 13-20-408, is amended by adding the following as subsection (c) and redesignating the existing subsection (c) and subsequent subsections accordingly:

In any county having a population of not less than sixty-two thousand three hundred (62,300) nor more than sixty-two thousand four hundred (62,400) according to the 2000 federal census or any subsequent federal census, the authority shall be increased to seven (7) commissioners. Appointments shall be made in such a manner that the terms of no more than two (2) commissioners shall expire in any year and it shall take four (4) commissioner to constitute a quorum.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 3 was adopted.

Rep. Hargrove moved that **House Bill No. 2510**, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes .....	97
Noes .....	0
Present and not voting .....	1

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Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 97.

Representatives present and not voting were: Brooks -- 1.

A motion to reconsider was tabled.

### RESOLUTIONS

Pursuant to **Rule No. 17**, the following resolution(s) was/were introduced and placed on the Supplemental Consent Calendar for May 15, 2002:

**House Resolution No. 296** -- Memorials, Personal Occasion - Dane Lebron McCary, 40th birthday. by \*Cole (Dyer).

**House Resolution No. 297** -- Memorials, Interns - David Haley. by \*Phillips.

**House Resolution No. 298** -- Memorials, Interns - Robert James Carter. by \*Phillips.

**House Resolution No. 299** -- Memorials, Academic Achievement - Morgan Boak, Salutatorian, Millington Central High School. by \*Pleasant, \*Hargett.

**House Resolution No. 300** -- Memorials, Academic Achievement - Natalie Sorensen, Valedictorian, Millington Central High School. by \*Pleasant, \*Hargett.

**House Resolution No. 301** -- Naming and Designating - May 15, 2002, National Peace Officers' Memorial Day in Madison County. by \*Shaw.

**House Resolution No. 302** -- Memorials, Death - Robert Cleave Hurd. by \*DeBerry L.

**House Resolution No. 303** -- Memorials, Interns - Doug Davenport. by \*Pinion, \*Shepard.

**House Resolution No. 304** -- Memorials, Recognition - Dr. Carl Huff. by \*Maddox.

**House Resolution No. 305** -- Memorials, Recognition - Tri-Cities Christian Schools Students. by \*Godsey, \*Davis (Washington), \*Mumpower.

**House Resolution No. 306** -- Memorials, Retirement - F.C. Richardson. by \*DeBerry L.

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**House Resolution No. 307** -- Memorials, Academic Achievement - Kristy Michelle Bolden, Valedictorian, Harriman High School. by \*Ferguson.

**House Resolution No. 308** -- Memorials, Academic Achievement - Kristel Katherine Fuller, Salutatorian, Harriman High School. by \*Ferguson.

**House Joint Resolution No. 1039** -- Memorials, Interns - Todd Anthony Staley. by \*Ridgeway.

**House Joint Resolution No. 1040** -- Memorials, Academic Achievement - Marquita A. Carter, Salutatorian, Brainerd High School. by \*Turner (Hamilton).

**House Joint Resolution No. 1042** -- Memorials, Sports - John W. Kimbrell, Lipscomb University Athletic Hall Of Fame. by \*White.

**House Joint Resolution No. 1043** -- Memorials, Recognition - Arleigh Brackin. by \*White.

**House Joint Resolution No. 1044** -- Memorials, Academic Achievement - Kristine E. Phillips. by \*Beavers.

**House Joint Resolution No. 1045** -- Memorials, Academic Achievement - Ann M. Hunt, Salutatorian, Hixson High School. by \*Turner (Hamilton).

**House Joint Resolution No. 1046** -- Memorials, Academic Achievement - Jason Smith, Valedictorian, Hixson High School. by \*Turner (Hamilton).

**House Joint Resolution No. 1047** -- Memorials, Academic Achievement - Kim Nguyen, Valedictorian, Hixson High School. by \*Turner (Hamilton).

**House Joint Resolution No. 1048** -- Memorials, Sports - Jim Helton, Athletic Director, Oak Ridge High School. by \*Caldwell.

**House Joint Resolution No. 1049** -- Memorials, Academic Achievement - William David Ivens, Salutatorian, Maryville Christian School. by \*Overbey, \*McCord.

**House Joint Resolution No. 1050** -- Memorials, Death - Stanley B. Shields. by \*Overbey, \*McCord.

**House Joint Resolution No. 1051** -- Memorials, Academic Achievement - Candice Michelle French, Valedictorian, Tyner Academy. by \*Turner (Hamilton).

**House Joint Resolution No. 1052** -- Memorials, Academic Achievement - Kyle Evan McCurley, Salutatorian, Franklin Road Christian School. by \*Rowland, \*Beavers, \*Hood.

**House Joint Resolution No. 1053** -- Memorials, Academic Achievement - Justin Tyler Wax, Co-Valedictorian, Franklin Road Christian School. by \*Rowland, \*Beavers, \*Hood.

**House Joint Resolution No. 1054** -- Memorials, Academic Achievement - Megan Simmons, Salutatorian, Cedar Hall School. by \*Rowland, \*Beavers, \*Hood.

**WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY**

**House Joint Resolution No. 1055** -- Memorials, Academic Achievement - Sonneri Myburgh, Salutatorian, Middle Tennessee Christian School. by \*Rowland, \*Beavers, \*Hood.

**House Joint Resolution No. 1056** -- Memorials, Academic Achievement - Alyssa Pettit, Valedictorian, Cedar Hall School. by \*Rowland, \*Beavers, \*Hood.

**House Joint Resolution No. 1057** -- Memorials, Academic Achievement - Bethany Megan Wies, Co-Valedictorian, Franklin Road Christian School. by \*Rowland, \*Beavers, \*Hood.

**House Joint Resolution No. 1058** -- Memorials, Academic Achievement - Jessica Heiser, Valedictorian, Middle Tennessee Christian School. by \*Rowland, \*Beavers, \*Hood.

**House Joint Resolution No. 1059** -- Memorials, Recognition - Latica Ivkovic. by \*White.

**House Joint Resolution No. 1069** -- Memorials, Death - Carey Busby Hickman. by \*Sands.

**House Joint Resolution No. 1070** -- Memorials, Interns - Lindsey Michelle Reid. by \*Naifeh.

**House Joint Resolution No. 1071** -- Memorials, Recognition - H. M. Eslick. by \*Fowlkes, \*Phillips, \*Fraleigh, \*White, \*Sands, \*Bone.

**House Joint Resolution No. 1072** -- Memorials, Recognition - Alvin McKee. by \*Bone.

**House Joint Resolution No. 1073** -- Memorials, Recognition - Josephine Jackson. by \*Phelan.

**House Joint Resolution No. 1074** -- Memorials, Death - Marion Holmes, Jr. by \*Phelan.

**House Joint Resolution No. 1075** -- Memorials, Death - Cecil H. Butcher, Jr. by \*Phelan.

**House Joint Resolution No. 1077** -- Memorials, Interns - John P. Prince. by \*Bittle.

**House Joint Resolution No. 1078** -- Memorials, Recognition - Family Christian Academy Mock Trial Champions. by \*Clem.

**CONSENT CALENDAR  
May 15, 2002**

The following local bills have been placed on the Supplemental Consent Calendar for **May 15, 2002**: House Bill(s) No(s). 3281.

**SUPPLEMENTAL CONSENT CALENDAR**

**House Bill No. 3281** -- Williamson County - Pursuant to local request, authorizes Franklin Special School District to levy annual property tax through year 2019 for purpose of paying principal, interest, and redemption premiums on bonds and other indebtedness of district. Amends Chapter 11 of the Private Acts of 1999. by \*Casada. (SB3235 by \*Blackburn)

**House Resolution No. 296** -- Memorials, Personal Occasion - Dane Lebron McCary, 40th birthday. by \*Cole (Dyer).

**House Resolution No. 297** -- Memorials, Interns - David Haley. by \*Phillips.

**House Resolution No. 298** -- Memorials, Interns - Robert James Carter. by \*Phillips.

**House Resolution No. 299** -- Memorials, Academic Achievement - Morgan Boak, Salutatorian, Millington Central High School. by \*Pleasant, \*Hargett.

**House Resolution No. 300** -- Memorials, Academic Achievement - Natalie Sorensen, Valedictorian, Millington Central High School. by \*Pleasant, \*Hargett.

**House Resolution No. 301** -- Naming and Designating - May 15, 2002, National Peace Officers' Memorial Day in Madison County. by \*Shaw.

**House Resolution No. 302** -- Memorials, Death - Robert Cleave Hurd. by \*DeBerry L.

**House Resolution No. 303** -- Memorials, Interns - Doug Davenport. by \*Pinion, \*Shepard.

**House Resolution No. 304** -- Memorials, Recognition - Dr. Carl Huff. by \*Maddox.

**House Resolution No. 305** -- Memorials, Recognition - Tri-Cities Christian Schools Students. by \*Godsey, \*Davis (Washington), \*Mumpower.

**House Resolution No. 306** -- Memorials, Retirement - F.C. Richardson. by \*DeBerry L.

**House Resolution No. 307** -- Memorials, Academic Achievement - Kristy Michelle Bolden, Valedictorian, Harriman High School. by \*Ferguson.

**House Resolution No. 308** -- Memorials, Academic Achievement - Kristel Katherine Fuller, Salutatorian, Harriman High School. by \*Ferguson.

**House Joint Resolution No. 1039** -- Memorials, Interns - Todd Anthony Staley. by \*Ridgeway.

**House Joint Resolution No. 1040** -- Memorials, Academic Achievement - Marquita A. Carter, Salutatorian, Brainerd High School. by \*Turner (Hamilton).

**House Joint Resolution No. 1042** -- Memorials, Sports - John W. Kimbrell, Lipscomb University Athletic Hall Of Fame. by \*White.

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**House Joint Resolution No. 1043** -- Memorials, Recognition - Arleigh Brackin. by \*White.

**House Joint Resolution No. 1044** -- Memorials, Academic Achievement - Kristine E. Phillips. by \*Beavers.

**House Joint Resolution No. 1045** -- Memorials, Academic Achievement - Ann M. Hunt, Salutatorian, Hixson High School. by \*Turner (Hamilton).

**House Joint Resolution No. 1046** -- Memorials, Academic Achievement - Jason Smith, Valedictorian, Hixson High School. by \*Turner (Hamilton).

**House Joint Resolution No. 1047** -- Memorials, Academic Achievement - Kim Nguyen, Valedictorian, Hixson High School. by \*Turner (Hamilton).

**House Joint Resolution No. 1048** -- Memorials, Sports - Jim Helton, Athletic Director, Oak Ridge High School. by \*Caldwell.

**House Joint Resolution No. 1049** -- Memorials, Academic Achievement - William David Ivens, Salutatorian, Maryville Christian School. by \*Overbey, \*McCord.

**House Joint Resolution No. 1050** -- Memorials, Death - Stanley B. Shields. by \*Overbey, \*McCord.

**House Joint Resolution No. 1051** -- Memorials, Academic Achievement - Candice Michelle French, Valedictorian, Tyner Academy. by \*Turner (Hamilton).

**House Joint Resolution No. 1052** -- Memorials, Academic Achievement - Kyle Evan McCurley, Salutatorian, Franklin Road Christian School. by \*Rowland, \*Beavers, \*Hood.

**House Joint Resolution No. 1053** -- Memorials, Academic Achievement - Justin Tyler Wax, Co-Valedictorian, Franklin Road Christian School. by \*Rowland, \*Beavers, \*Hood.

**House Joint Resolution No. 1054** -- Memorials, Academic Achievement - Megan Simmons, Salutatorian, Cedar Hall School. by \*Rowland, \*Beavers, \*Hood.

**House Joint Resolution No. 1055** -- Memorials, Academic Achievement - Sonneri Myburgh, Salutatorian, Middle Tennessee Christian School. by \*Rowland, \*Beavers, \*Hood.

**House Joint Resolution No. 1056** -- Memorials, Academic Achievement - Alyssa Pettit, Valedictorian, Cedar Hall School. by \*Rowland, \*Beavers, \*Hood.

**House Joint Resolution No. 1057** -- Memorials, Academic Achievement - Bethany Megan Wies, Co-Valedictorian, Franklin Road Christian School. by \*Rowland, \*Beavers, \*Hood.

**House Joint Resolution No. 1058** -- Memorials, Academic Achievement - Jessica Heiser, Valedictorian, Middle Tennessee Christian School. by \*Rowland, \*Beavers, \*Hood.

**House Joint Resolution No. 1059** -- Memorials, Recognition - Latica Ivkovic. by \*White.



## WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY

**House Joint Resolution No. 1069** -- Memorials, Death - Carey Busby Hickman. by \*Sands.

**House Joint Resolution No. 1070** -- Memorials, Interns - Lindsey Michelle Reid. by \*Naifeh.

**House Joint Resolution No. 1071** -- Memorials, Recognition - H. M. Eslick. by \*Fowlkes, \*Phillips, \*Fraleigh, \*White, \*Sands, \*Bone.

**House Joint Resolution No. 1072** -- Memorials, Recognition - Alvin McKee. by \*Bone.

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**House Joint Resolution No. 1075** -- Memorials, Death - Cecil H. Butcher, Jr. by \*Phelan.

**House Joint Resolution No. 1077** -- Memorials, Interns - John P. Prince. by \*Bittle.

**House Joint Resolution No. 1078** -- Memorials, Recognition - Family Christian Academy Mock Trial Champions. by \*Clem.

### OBJECTION -- SUPPLEMENTAL CONSENT CALENDAR

Objection(s) was/were filed to the following on the Supplemental Consent Calendar:

**House Bill No. 3281:** by Rep. Davidson

Under the rules, House Bill(s) No(s). 3281 was/were placed at the foot of the calendar for May 22, 2002.

Rep. Shaw moved that all members voting aye on House Resolution No. 301 be added as sponsors, which motion prevailed.

Rep. L. DeBerry moved that all members voting aye on House Resolution No. 306 be added as sponsors, which motion prevailed.

Rep. Pleasant moved that all members voting aye on House Resolution(s) No(s). 299 and 300 be added as sponsors, which motion prevailed.

Rep. Turner moved that all members voting aye on House Joint Resolution No. 1045, 1046 and 1047 be added as sponsors, which motion prevailed.

### RESOLUTION WITHDRAWN

On motion of Rep. L. DeBerry, **House Resolution No. 302** was withdrawn from the House.

**SUPPLEMENTAL CONSENT CALENDAR, CONTINUED**

Pursuant to **Rule No. 50**, Rep. Miller moved that all House Bills having companion Senate Bills and are on the Clerk's desk be conformed and substituted for the appropriate House Bill, all Senate and House Bills on the Supplemental Consent Calendar be passed on third and final consideration, all House Resolutions and House Joint Resolutions be adopted, and all Senate Joint Resolutions on the Supplemental Consent Calendar be concurred in, which motion prevailed by the following vote:

Ayes .....98  
Noes .....0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 98.

A motion to reconsider was tabled.

**SUPPLEMENTAL REGULAR CALENDAR**

**\*House Bill No. 2942** -- Taxes, Sales - Deletes all exemptions and special rates except for isolated sales between persons not regularly engaged in business and medical exemptions; taxes all services, except medical services, for state purposes only not to be taxed under local option act; sets state rate at 3.7 percent. Amends TCA Title 67, by \*McKee, \*Newton, \*Ford S, \*Patton, \*Roach, \*McDonald. (SB3004 by \*Cooper J)

Rep. McKee moved that House Bill No. 2942 be passed on third and final consideration.

Rep. Kisber requested that Finance, Ways and Means Committee Amendment No. 1 be placed at the heel of the Amendments.

Rep. McKee moved adoption of Amendment No. 2 as follows:

**Amendment No. 2**

AMEND House Bill No. 2942 by deleting all provisions of the bill following the enacting clause and substituting the following:

SECTION 1. Tennessee Code Annotated, Section 67-6-102(2), is amended by deleting the language therein in its entirety and substituting instead the following:

"Business" includes any activity engaged in by any person, or caused to be engaged in by such person, with the object of gain, benefit, or advantage, either direct or indirect. "Business" includes occasional and isolated sales and transactions involving the transfer of aircraft, vessels, or motor vehicles between corporations or other business entities and their members or stockholders. "Business" includes transactions caused by the merger, consolidation, or reorganization of corporations or other business entities. "Business" also includes occasional and isolated sales or transactions of aircraft, vessels, or motor vehicles between partnerships and the partners thereof and transfers between separate partnerships. Sales or transactions involving aircraft based in this state shall be presumed to be made and taxable in this state; and any registration reflecting such aircraft which are so based shall constitute evidence thereof. "Business" does not include occasional and isolated sales or transactions by a person not regularly engaged in business, or the occasional and isolated sale at retail or use of services sold by, or purchased from, a person not regularly engaged in business as a vendor of taxable services, or from one who is such a vendor but is not normally a vendor with respect to the services sold or purchased in such occasional or isolated transaction. "Business" shall be construed to include occasional and isolated sales or transactions by such a person involving aircraft, vessels or motor vehicles (which terms include trailers and special motor equipment sold in conjunction therewith), as defined by and required to be registered under the laws of Tennessee with an agency of this state or under the laws of the United States with an agency of the federal government, unless such sales or transactions are otherwise exempt under this chapter or are sales between persons who are: married, lineal relatives or spouses of lineal relatives, or siblings;

SECTION 2. Tennessee Code Annotated, Title 67, Chapter 6, Part 3, is amended by adding the following new section:

Section \_\_\_\_\_. There is exempt from the tax levied by this chapter:

(1) Any sale or use of any article, manufactured of the produce of this state exempt from taxation pursuant to Section 30 of Article II of the Constitution of Tennessee;

(2) Any sale or use which would otherwise be taxable pursuant to the provisions of this chapter but which would impose a tax which is invalid either under the commerce clause or the due process clause of the Constitution of the United States;

(3) The following services:

(A) Educational Services

(i) Educational services (for-profit)

(ii) Educational services (non-profit)

(B) Finance, Insurance and Real Estate

(i) Investment banking, securities brokerage, and related

(ii) Insurance agents and related

(C) Health Care and Social Services (for profit)

(i) Physicians and dentists

(ii) Other health practitioners

(iii) Hospitals

(iv) Nursing and residential care facilities

(v) Outpatient care centers

(vi) Medical and diagnostic laboratories

(vii) Other selected health services

(viii) Social and community services

(D) Health Care and Social Services (non-profit)

(i) Hospitals

(ii) Nursing and residential care facilities

(iii) Outpatient care centers

(iv) Other selected health services

(v) Social and community services

(E) Media Advertising Sales

(i) Newspaper advertising

(ii) Radio advertising

(iii) Television advertising (broadcast and cable)

(F) Professional and Technical Services

(i) Management, scientific and technical consulting

(ii) Scientific research and development  
(profit and non-profit)

(G) Transportation Services

(i) Couriers and messengers

(ii) Truck transportation (local)

(iii) Other transportation; and

(H) Personal Services

(i) Death care services

(4) The costs, other than material costs, associated with the construction of commercial or industrial improvements to real property over one million dollars (\$1,000,000) on a single project.

SECTION 3. Tennessee Code Annotated, Section 67-6-102, is amended by adding the following new subdivisions:

( ) "Medical services" means any service obtained at, or through, a hospital, nursing home, or from any health care practitioner required to be licensed under Title 63, except veterinarians, athletic trainers, and electrologists.

( ) "Service" means all activities engaged in for other persons for a consideration, other than medical services, when the primary objective of the purchaser is the receipt of the benefit (if any) of the activity performed, as distinguished from the receipt of property. In determining what is a service, the intended use or stated objective of the contracting parties shall not necessarily be controlling. "Service" does not include, during the period that § 56-4-218 remains in effect, the sale or servicing (by any domestic or foreign insurance company or any broker or agent or employee of such company), of any insurance policy pertaining to life, fire, marine, fidelity, surety, casualty, liability or any other form of insurance for which premium taxes are paid pursuant to Title 56, Chapter 4, Part 2. "Service" does not include any activity performed for consideration, directly or indirectly, for a federal, state, or local governmental entity.

SECTION 4. Tennessee Code Annotated, Section 67-6-102(24), is amended by deleting subdivisions (E) (iii) and (iv) in their entirety, and is further amended by deleting subdivision (F) (i), (ii), and (iv) – (viii) and substituting instead the following, and renumbering the remaining subdivisions accordingly:

(F)(i) "Retail sale," "sale at retail" and "retail sales price" includes any service, and such service is subject to tax under this chapter, when that service is performed in Tennessee for a consideration. It is the legislative intent that all services performed in Tennessee be subject to sales tax unless specifically exempted in this chapter.

(ii) With respect to services, other than telecommunication services, such services shall be considered to be performed in Tennessee if:

(a) Performed completely in Tennessee; or

(b) Performed partially in Tennessee and partially outside of Tennessee, when the recipient or user of the service is located in Tennessee; or

(c) Performed partially in Tennessee and partially outside of Tennessee, if the recipient or user of the service is not located in Tennessee, but only to the extent of those services actually performed in Tennessee; or

(d) The place of performance cannot be determined, if the recipient or user of the service is located in Tennessee.

(iii) With respect to services, other than telecommunication services, such services performed partially in Tennessee and partially outside of Tennessee shall be presumed to have been performed completely in Tennessee unless the taxpayer can show the place of performance by clear and cogent evidence.

SECTION 5. Tennessee Code Annotated, Section 67-6-102, is amended by deleting subdivision (D) of paragraph (30) in its entirety and substituting instead the following:

"Telecommunications" does not include television programming or television services delivered by a provider of direct-to-home satellite service.

SECTION 6. Tennessee Code Annotated, Section 67-6-205, is amended by adding the following new subsections:

( ) The crediting provisions of Sections 67-6-313(f) and 67-6-507(a) are specifically made applicable to the services described in Section 67-6-102(24)(F)(i), when all or part of the performance of those services takes place outside of Tennessee.

( ) The tax levied by this section does not apply to charges made by the state and its political subdivisions, when providing on-street parking space for which charges are collected, or when operating or conducting a garage or parking lot which is unattended and such charges are collected by parking meters.

( ) With respect to staff leasing companies, the tax levied by this section applies only to gross receipts as defined in Section 62-43-121.

( ) With respect to collection agencies, the tax levied by this section applies only to the administrative fees received by the collection agency from clients, rather than the gross collections made on behalf of clients.

SECTION 7. Tennessee Code Annotated, Section 67-6-103, is amended by deleting subsection (f).

SECTION 8. Tennessee Code Annotated, Title 67, Chapter 6, Part 2, is amended by adding the following new section:

Section \_\_\_\_\_. Notwithstanding any other provision of law to the contrary, a portion of the revenue in an amount equal to one-half percent (0.5%) generated from any sale or use which is taxed at the rate of the tax levied on the sale of tangible personal property at retail by the provisions of §67-6-202 shall continue to be dedicated for education purposes until changed by the general assembly. All revenue generated from such portion of the sales tax rate shall be deposited in the education trust fund and earmarked for education purposes as provided in §49-3-357.

SECTION 9. Tennessee Code Annotated, Section 67-6-202(a), is amended by adding the following after the words "at retail in this state":

until July 1, 2003, at which time the rate shall be reduced to five and one-half percent (5.5%).

Tennessee Code Annotated, Section 67-6-202, is further amended by deleting subsection (b) in its entirety.

SECTION 10. Tennessee Code Annotated, Section 67-6-203(a), is amended by deleting the language "six percent (6%)" and by substituting instead the language "the tax levied on the sale of tangible personal property at retail by the provisions of §67-6-202".

Tennessee Code Annotated, Section 67-6-203, is further amended by deleting subsection (c) in its entirety.

SECTION 11. Tennessee Code Annotated, Section 67-6-204, is amended by deleting the language "six percent (6%)" wherever it appears and by substituting instead the language "the tax levied on the sale of tangible personal property at retail by the provisions of §67-6-202".

Tennessee Code Annotated, Section 67-6-204, is further amended by deleting subsection (d) in its entirety.

SECTION 12. Tennessee Code Annotated, Section 67-6-205(a), is amended by adding the following after the words "under this chapter":

until July 1, 2003, at which time the rate shall be the tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202.

Tennessee Code Annotated, Section 67-6-205, is further amended by deleting subsection (b) in its entirety.

SECTION 13. Tennessee Code Annotated, Section 67-6-206(b)(1), is amended by deleting the language "one percent (1%)" and "one and one-half percent (1.5%)" and substituting the language "four and one-half percent (4.5%)" in each place.

SECTION 14. Tennessee Code Annotated, Section 67-6-209, is amended by deleting the language therein in its entirety and substituting instead the following:

(a) Where a manufacturer, producer, compounder or contractor erects or applies tangible personal property, which the manufacturer, producer, compounder or contractor has manufactured, produced, compounded or severed from the earth, such person so using the tangible personal property shall pay the tax herein levied on the fair market value of such tangible personal property when used, without any deductions except as provided in this chapter; provided, that the foregoing shall not be construed to apply to contractors or subcontractors who fabricate, erect or apply tangible personal property which becomes a component part of a building, and which is not sold by them as a manufactured item.

(b) Where a contractor or subcontractor hereinafter defined as a dealer uses tangible personal property in the performance of the contract, or to fulfill contract or subcontract obligations, whether the title to such property be in the contractor, subcontractor, contractee, subcontractee, or any other person, or whether the title holder of such property would be subject to pay the sales or use tax, such contractor or subcontractor shall pay a tax at the rate prescribed by Section 67-6-203 measured by the purchase price of such property, unless such property has been previously subjected to a sales or use tax, and the tax due thereon has been paid.



(c) The tax imposed by this section shall have no application where the contractor or subcontractor, and the purpose for which such tangible personal property is used, would be exempt from the sales or use tax under any other provision of this chapter. However, the transfer of tangible personal property by a contractor who contracts for the installation of such tangible personal property as an improvement to realty does not constitute a sale, except as provided in Section 67-6-102(8).

SECTION 15. Tennessee Code Annotated, Section 67-4-506, is deleted in its entirety.

SECTION 16. Tennessee Code Annotated, Title 67, Chapter 6, Part 2, is amended by deleting Sections 67-6-204(b), 67-6-216, 67-6-217, and 67-6-223 in their entirety.

SECTION 17. Tennessee Code Annotated, Section 67-6-301 is amended by deleting the language therein in its entirety and substituting instead the following:

The tax imposed by this chapter shall not apply to the direct product of the soil in the hands of the producer, and his immediate vendee.

SECTION 18. Tennessee Code Annotated, Title 67, Chapter 6, Part 3, is amended by adding the following as a new section:

Exempt from the tax imposed by this chapter are services performed by bona fide employees for their employers, to the extent their compensation is in the form of salary, commissions, or other compensation traditionally and normally provided to bona fide employees. Whether or not a person is a bona fide employee shall be determined based on the totality of the circumstances. Factors to be considered include, but are not limited to, whether the person paying the compensation reports employee compensation to the internal revenue service, whether the alleged employee is covered under workers' compensation laws, and whether the employer pays payroll taxes on account of its employment of the alleged employee.

SECTION 19. Tennessee Code Annotated, Title 67, Chapter 6, Part 3, is amended by deleting Sections 67-6-309, and 67-6-311, in their entirety.

SECTION 20. Tennessee Code Annotated, Section 67-6-330, is amended by deleting subdivisions (a) (3), (4), (8), (10), (14), and (19), and by deleting subsection (b).

SECTION 21. Tennessee Code Annotated, Section 67-6-329, is amended by deleting subdivision (a) (22) in its entirety.

SECTION 22. Tennessee Code Annotated, Title 67, Chapter 6, Part 3, is amended by deleting Sections 67-6-336, 67-6-349, 67-6-350, 67-6-351, and 67-6-354, in their entirety.

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SECTION 23. Tennessee Code Annotated, Section 67-6-201, is amended by adding a new subdivision, as follows:

(11) Provides or engages in services not otherwise exempt from the sales and use tax pursuant to this chapter. Provided, however, that services taxable pursuant to the addition of services or removal of exemptions by this act, shall be a taxable privilege for state purposes only and shall not be permitted to be taxed under the provisions of the Local Option Revenue Act, Tennessee Code Annotated, Title 67, Chapter 7, Part 7.

SECTION 24. Sections 4 – 17 and 19 – 22 shall take effect July 1, 2002, the public welfare requiring it. Sections 1, 2, 3, 18, and 23 shall take effect October 1, 2002, the public welfare requiring it. The commissioner of revenue is authorized to promulgate any necessary rules or regulations upon this act becoming law, the public welfare requiring it.

Rep. Rhinehart moved the previous question on Amendment No. 2, which motion prevailed.

On motion, Amendment No. 2 was adopted.

On motion, Rep. Kisber withdrew Finance, Ways and Means Committee Amendment No. 1.

### **BILL RE-REFERRED**

Rep. McKee moved that House Bill No. 2942 be re-referred to the House Committee on Calendar and Rules, which motion prevailed.

### **MESSAGE CALENDAR**

**\*Senate Bill No. 93** – Sunset Laws - Health facilities commission, June 30, 2007. Amends TCA Title 4, Chapter 29 and Title 68, Chapter 11. by \*Harper. (HB976 by \*Kernell, \*Brooks, \*Cooper B)

Further consideration of Senate Bill No. 93 previously considered on May 8, 2002, at which time it was reset for today's Message Calendar.

### **CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 93**

The House and Senate Conference Committee appointed pursuant to motions to resolve the differences between the two houses on Senate Bill No. 93 (House Bill No. 976) has met and recommends deleting all the language in the printed bill after the enacting clause and by substituting the following:

SECTION 1. Tennessee Code Annotated, Section 4-29-222 (a), is amended by deleting item (20) in its entirety.

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SECTION 2. Tennessee Code Annotated, Section 4-29-225(a), is amended by adding two (2) new items thereto, as follows:

( ) Health services and development agency, created by this act;

( ) State health planning and advisory board, created by this act;

SECTION 3. Tennessee Code Annotated, Title 68, Chapter 11, Part 1, is repealed in its entirety effective July 1, 2002.

SECTION 4. Tennessee Code Annotated, Title 68, Chapter 11, is amended by adding a new part 16 as follows:

Section 68-11-1601. This part shall be known and may be cited as the "Tennessee Health Services and Planning Act of 2002."

68-11-1602. As used in this part, unless the context otherwise requires:

(1) "Agency" and "health services and development agency" means the agency created by this part to administer the certificate of need program and related activities;

(2) "Board" and "state planning and advisory board" mean the board created by this part to develop the state health plan and other related studies;

(3) "Certificate of need" means a permit granted by the health services and development agency to any person for the establishment or modification of a health care institution, facility, or covered health service, at a designated location;

(4) "Conflict of Interest" means any matter before the agency in which the member or employee of the agency has a direct or indirect interest which is in conflict or gives the appearance of conflict with the discharge of the member's or employee's duties;

(A) "Direct interest" means a pecuniary interest in the persons involved in a matter before the agency. This interest applies to the agency member or employee, the agency member's or employee's relatives or an individual with whom or business as to which the member or employee has a pecuniary interest. For the purposes of this act, a relative is a spouse, parent, child, stepparent, stepchild, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, or nephew by blood, marriage or adoption; and

(B) "Indirect interest" means a personal interest in the persons involved in a matter before the agency that is in conflict or gives the appearance of conflict with the discharge of the agency member's or employee's duties;

(5) "Department" means the department of health;

(6) "Ex parte communications" mean communications as defined by § 4-5-304;

(7) "Facility" means any real property or equipment owned, leased, or used by a health care institution for any purpose, other than as an investment;

(8)(A) "Health care institution" means any agency, institution, facility or place, whether publicly or privately owned or operated, which provides health services and which is one (1) of the following: nursing home; recuperation center; hospital; ambulatory surgical treatment center; birthing center; mental health hospital; mental retardation institutional habilitation facility; home care organization or any category of service provided by a home care organization for which authorization is required under part 2 of this chapter; outpatient diagnostic center; rehabilitation facility; residential hospice; non-residential methadone treatment facility or mental health residential treatment facility;

(B) "Health care institution" does not include:

(i) Ground ambulances;

(ii) Homes for the aged;

(iii) Any premises occupied exclusively as the professional practice office of a physician licensed pursuant to the provisions of title 63, chapter 6, part 2 and title 63, chapter 9, or dentist licensed by the state and controlled by such physician or dentist;

(iv) Administrative office buildings of public agencies related to health care institutions; or

(v) Christian Science sanatoriums operated, or listed and certified, by the First Church of Christ Scientist, Boston, Massachusetts;

(9) "Health service" means clinically related (i.e., diagnostic, treatment, or rehabilitation) services and includes those services specified as requiring a certificate of need under § 68-11-1607;

(10) "Home care organization" means any entity licensed as such by the department which is staffed and organized to provide "home health services," or "hospice services" as defined by § 68-11-201, to patients in either their regular or temporary place of residence;

(11) "Letter of intent" means the form prescribed by the agency which shall require a brief project description, location, estimated project cost, owner of the project and description of services to be performed;

(12) "Licensed beds" means the number of beds licensed by the agency having licensing jurisdiction over the facility;

(13) "Major medical equipment" means a single unit of medical equipment or a single system of components with related functions, which is used to provide medical and other health services and which costs more than the amounts determined under § 68-11-1607(a); "major medical equipment" does not apply to any equipment not directly related to patient care;

(14) "Patient" means and includes, but is not limited to, any person who is suffering from an acute or chronic physical or mental illness or injury or who is crippled, convalescent, infirm, or mentally retarded, or who is in need of obstetrical, surgical, medical, nursing, psychiatric or supervisory care;

(15) "Person" means any individual, trust or estate, firm, partnership, association, stockholder, joint venture, corporation or other form of business organization, the state of Tennessee and its political subdivisions or parts thereof, and any combination of persons herein specified, public or private; "person" does not include the United States or any agency or instrumentality thereof, except in the case of voluntary submission to the regulations established by this part;

(16) "Rehabilitation facility" means an inpatient or residential facility which is operated for the primary purpose of assisting in the rehabilitation of physically disabled persons through an integrated program of medical and other services which are provided under professional supervision;

(17) "Review Cycle" means the timeframe set for the review and initial decision on applications for certificate of need applications that have been deemed complete. The first day of the month is the first day of the review cycle; and

(18) "State health plan" means the plan that is developed by the state planning and advisory board pursuant to this part. The plan shall include clear statements of goals, objectives, criteria and standards to guide the development of health care programs administered or funded by the state of Tennessee through its departments, agencies or programs, and used by the agency when issuing certificates of need.

Section 68-11-1603. It is hereby declared to be the public policy of this state that the establishment and modification of health care institutions, facilities and services shall be accomplished in a manner which is orderly, economical and consistent with the effective development of necessary and adequate means of providing for the health care of the people of Tennessee. To this end, the provisions of this section shall be equitably applied to all health care entities, regardless of ownership or type, except those owned and operated by the United States government.

Section 68-11-1604. (a) There is hereby created a health services and development agency which has jurisdiction and powers relating to the certification of need and related reporting of all health care institutions, as defined by and subject to this chapter.

(b)(1) The agency shall have nine (9) members including the comptroller of the treasury or an employee of such department upon the designation of the comptroller of the treasury, the state director of TennCare or its successor or an employee of such department upon the designation of the director, the commissioner of the department of commerce and insurance or an employee of such department upon the designation of the commissioner, one (1) consumer member appointed by the speaker of the senate, one (1) consumer member appointed by the speaker of the house of representatives and five (5) members appointed by the governor which include one (1) person who has recent experience as an executive officer of a hospital or hospital system from a list of one (1) nominee submitted by the Tennessee Hospital Association; one (1) representative of the nursing home industry from a list of one (1) nominee submitted by the Tennessee Health Care Association; one (1) duly licensed physician from a list of one (1) nominee submitted by the Tennessee Medical Association; and one (1) consumer member .

(2) In making appointments to the health services and development agency, the governor and the speakers shall strive to ensure that racial minorities, females, persons sixty (60) years of age and older and the three (3) grand divisions of the state are represented.

(3) The consumer members shall be persons who are knowledgeable of health needs and services and who are further knowledgeable by training or experience in health care facility design or construction, financing of health care services or construction, reimbursement of health care services, or general health care economics. The consumer members shall not be a direct provider of health care goods or services.

(c)(1) No member of the agency shall serve beyond the expiration of such member's term, whether or not a successor has been appointed by the governor or the speakers.

(2) Except for the comptroller of the treasury, the commissioner of the department of commerce and insurance, the director of TennCare, or their appointed employees, agency members shall be appointed for three-year terms and no member shall serve more than two consecutive three-year terms. The terms shall be staggered so that the initial term for the physician and the consumer member appointed by the governor shall be three (3) years; the consumer member appointed by the speaker of the senate shall be one (1) year; and the nursing home representative, the hospital representative and the consumer member appointed by the speaker of the house of representatives shall be two (2) years. Following the initial terms, all terms shall be three years.

(3) If any member is absent from three (3) consecutive, regularly scheduled public meetings of the agency, such individual's membership shall be automatically terminated, and the position shall be considered as vacant.

(d)(1) Each member of the agency shall receive fifty dollars (\$50.00) per diem when actually engaged in the discharge of such member's official duties, and in addition, shall be reimbursed for all travel and other necessary expenses. However, agency members that are state employees shall not receive such per diem but shall be reimbursed for all travel and other necessary expenses.

(2) All expenditures shall be claimed and paid in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration, and approved by the attorney general and reporter.

(e)(1) The agency, at its first meeting and the first meeting in each second fiscal year thereafter, shall elect one of the consumer members as chair of the agency for a term of two years. No member shall serve consecutive terms as chair. At the same meeting, the agency shall elect from its members a vice chair to serve a term of one year. No member shall serve two consecutive terms as vice-chair.

(2) Meetings of the agency shall be held as frequently as its duties may require.

(3) Six (6) members shall constitute a quorum, but a vacancy on the agency shall not impair its power to act.

(4) No action of the agency shall be effective unless such action is concurred in by a majority of its members present and voting.

(5) In the event of a tie vote, the action shall be considered disapproved.

(6) The agency shall record by name the votes taken on all actions of the agency.

(7)(A) All agency members shall annually review and sign a statement acknowledging the statute, rules and policies concerning conflicts of interest.

(B) Any member, upon determining that a matter scheduled for consideration by the agency results in a conflict with a direct interest shall immediately notify the executive director and shall recuse himself or herself from any deliberation of the matter, making any recommendation or testifying concerning the matter or voting on the matter. The member shall join the public during the proceedings.

(i) Any member with an indirect interest shall publicly acknowledge such interest.

(ii) All members shall make every reasonable effort to avoid even the appearance of a conflict of interest. If a member is uncertain whether the relationship justifies recusal, the member shall follow the determination by the legal counsel for the agency.

(iii) A determination by the agency or any court that a member of the agency with a direct interest failed to provide notice and recuse from deliberations of the matter, making any recommendation or testifying concerning the matter or voting on the matter shall automatically be terminated from the agency and the position shall be considered vacant. The member shall not be eligible for appointment to any agency, board or commission of the state for a period of two years.

(iv) The executive director, upon determining that a conflict exists for the executive director or any member of the staff, shall notify the chairman of the agency and take such action as they prescribe and pursuant to this part.

Section 68-11-1605. In addition to the powers granted elsewhere in this part, the agency has the duty and responsibility to:

(1) Receive and consider applications for certificates of need, to review recommendations thereon, and to grant or deny certificates of need on the basis of the merits of such applications within the context of the local, regional and state health needs and plans, including, but not limited to, the state health plan developed pursuant to § 68-11-1625, in accordance with the provisions of this part;

(2) Consider and make recommendations and comment to the governor concerning the state health plan as developed and submitted by the state health planning and advisory board; and

(3) Promulgate rules, regulations and procedures deemed necessary by the agency for the fulfillment of its duties and responsibilities under this part and contract when necessary for the implementation of the certificate of need program and health planning as defined by this part;

(4) Weigh and consider the health care needs of consumers, particularly women; racial and ethnic minorities; TennCare/medicaid recipients and low-income groups whenever the agency performs its duties or responsibilities assigned by law.

Section 68-11-1606.(a) The agency shall appoint an executive director qualified by education and experience. The executive director shall demonstrate knowledge and experience in the areas of public administration and health policy development.



(b) The agency shall fix the salary of the executive director, who shall serve at the pleasure of the agency. The executive director shall be the chief administrative officer of the agency and the appointing authority, exercising general supervision over all persons employed by the agency.

(c) The executive director shall have the following duties:

(1) Keep a written record of all proceedings and transactions of the agency, which shall be open to public inspection during regular office hours;

(2) Administer the certificate of need process;

(3) Represent the agency before the general assembly;

(4) Oversee the issuance of responses to requests for determination regarding the applicability of the provisions of this part;

(5) Prepare the agenda, including consent and emergency calendars, and notice to the general public of all meetings and public hearings of the agency;

(6) Employ such personnel, within the budget, to assist in carrying out the provisions of this part;

(7) Carry out all policies, rules and regulations that are adopted by the agency and supervise the expenditure of funds.

(d) In addition to the duties provided in subsection (c), the agency shall have the authority to delegate, and it is the intent of the general assembly that the agency exercises such authority to delegate, the following responsibilities and duties to the executive director:

(1) Granting approval, denial deferral or referral to the agency of applications for certificate of need in accordance with §68-11-1609; and

(2) Granting approval or denial of modifications, changes of conditions or ownership, and extensions of certificates of need as in accordance with provisions of this part.

(e) The delegation of authority pursuant to §68-11-1606(d) shall continue until specifically revoked by the agency as a result of a determination that such revocation is necessary to insure the proper and orderly operations of the agency.

(f) Actions taken by the executive director shall be final as if the actions were taken by the agency; provided, that a member of the agency may, in the sole discretion of the member, request that the agency review the action of the executive director. Such request shall be made within fifteen (15) days of the notice of the action by the executive director, in which case the action shall not become final until the agency has rendered its final decision in the matter. The review shall be heard within forty-five (45) days of the request for review of the action.

(g) A party desiring the agency to review an action by the executive director must file a written petition for review with the agency within fifteen (15) days of notice of the action. The executive director shall notify the members within two (2) business days that a request for agency review of the initial action has been filed. Any member of the agency shall have fifteen (15) days to request an agency review. If no member requests a review within said fifteen (15) days, such petition shall be deemed denied. If the agency grants the petition to review of the initial action of the executive director, the agency shall set a public hearing reviewing the action. The public hearing shall be held within forty-five (45) days from the date the review was requested by the member. This shall not be construed to limit in any way the authority of any agency member to request a review within fifteen (15) days of the notice of the initial action of the executive director.

(h) All reviews by the agency of decisions made by the executive director shall be upon the written notice of the action of the executive of the director, the application file, reports from the appropriate reviewing agency, or such information as the agency shall direct.

(i) If the agency does not exercise its discretion to review a decision of the executive director, the executive director shall issue a certificate of need or other notices of the decision, which shall be subject to judicial review in the same manner as are final actions of the agency.

Section 68-11-1607. (a) No person may perform the following actions in the state except after applying for and receiving a certificate of need for the same:

(1) The construction, development, or other establishment of any type of health care institution;

(2) Modification of a health care institution, other than a hospital, including renovations and additions to facilities, where such modification requires a capital expenditure greater than two million dollars (\$2,000,000), or in the case of a hospital where such modification requires a capital expenditure greater than five million dollars (\$5,000,000). Acquisition of real property as an investment, not for immediate use by the health care institution, shall not be deemed a modification; however, the cost of such property (or its value at the time of application, regardless of whether acquired by lease, loan, or gift) shall be included as required by agency rules as part of the total project cost of any later proposed project for the improvement, development, or use of the property in a manner which does modify the institution's facilities or services in a manner which requires a certificate of need. This provision does not apply to expenditures not directly related to patient care;

(3) In the case of a health care institution, any change in the bed complement, regardless of cost, which:

(A) Increases by one (1) or more the total number of licensed beds;

(B) Redistributes beds from acute to long-term care categories;

(C) Redistributes beds from any category to rehabilitation, child and adolescent psychiatric, or adult psychiatric; or

(D) Relocates beds to another facility or site;

(4) Initiation of any of the following health care services: air ambulance, burn unit, neonatal intensive care unit, open heart surgery, extracorporeal lithotripsy, magnetic resonance imaging, cardiac catheterization, linear accelerator, positron emission tomography, swing beds, home health, hospice, psychiatric, rehabilitation or hospital-based alcohol and drug treatment for adolescents provided under a systematic program of care longer than twenty-eight (28) days, or methadone treatment provided through a facility licensed as a non-residential methadone treatment facility.

(5) A change in the location or replacement of existing or certified facilities providing health care services, major medical equipment, or health care institutions, except for home health agencies as permitted by agency rule. "Change in location," as provided in this subdivision, shall not be construed to mean each time a piece of mobile major medical equipment is moved to a facility site for which a certificate of need has been issued;

(6) The acquisition by any person of major medical equipment for service to patients, the cost of which, exclusive of renovations or modifications, exceeds one million five hundred thousand dollars (\$1,500,000); provided, that the requirements of this subdivision shall not apply to the replacement of the same or similar equipment or an upgrade of equipment which improves the quality or cost effectiveness of the service. In order to receive such exemption for replacement or upgrade of equipment, the person acquiring such replacement or upgrade shall file a written notice of such replacement or upgrade with the health services and development agency. The notice filed shall contain a description of the original equipment and the replacement or upgraded equipment, together with the cost of such equipment. The health services and development agency shall consider the information contained in the notice to determine if the replacement or upgraded equipment meets the requirements of this subdivision; and

(7) The discontinuation of any obstetrical or maternity service.

(b) No agency of the state, or of any county or municipal government, shall approve any grant of funds for, or issue any license to, a health care institution for any portion or activity thereof which is established, modified, relocated, changed, or resumed, or which constitutes a covered health care service, in a manner in violation of the provisions of this part. If any agency of the state, or any county or municipal government approves any grant of funds for, or issues any license to any person or institution that a certificate of need was required but was not granted, the license shall become void and the funds shall be refunded to the state within ninety (90) days. The agency has the authority to impose civil penalties and petition any circuit or chancery court having jurisdiction to enjoin any person who is in violation as further defined in this part.

(c)(1) Each application shall be commenced by the filing of a letter of intent. The letter of intent shall be filed between the first day of the month and the tenth day of the month, inclusive, prior to the commencement of the review cycle in which the application is to be considered. At the time of filing, the applicant shall cause the letter of intent to be published in a newspaper of general circulation in the proposed service area of the project. The published letter of intent must contain a statement:

(A) That any health care institution wishing to oppose the application must file written notice with the agency no later than fifteen (15) days before the agency meeting at which the application is originally scheduled; and

(B) That any other person wishing to oppose the application must file a written objection with the agency at or prior to the consideration of the application by the agency.

(2) Persons desiring to file a certificate of need application seeking a simultaneous review regarding a similar project for which a letter of intent has been filed, shall file with the agency a letter of intent within ten (10) days after publication of the first filed letter of intent. A copy of any letter of intent filed after the first letter of intent shall be mailed or delivered to the first filed applicant, and shall be published in a newspaper of general circulation in the proposed service area of the first filed applicant within ten (10) days after publication by the first filed applicant. The applications shall be considered and decided by the health services and development agency simultaneously. The agency may refuse to consider the applications simultaneously, if it finds that the applications do not meet the requirements of "simultaneous review" under the rules of the agency.

(3) Applications for a certificate of need, including simultaneous review applications, shall be filed within five (5) days from the date of publication of the letter of intent. Within ten (10) days of the filing of an application for a nonresidential methadone treatment facility with the agency, the applicant shall send a notice to the county executive of the county in which the facility is proposed to be located, the member of the house of representatives and the senator of the general assembly representing the district in which the facility is proposed to be located, and to the mayor of the municipality, if the facility is proposed to be located within the corporate boundaries of a municipality, by certified mail, return receipt requested, informing such officials that an application for a nonresidential methadone treatment facility has been filed with the agency by the applicant. All applications, original and simultaneous review, shall not enter the next review cycle unless filed with the agency within such time as to assure that such application is deemed complete in accordance with the rules of the agency.

(4) If there are two (2) or more applications to be reviewed simultaneously in accordance with this part and the rules of the agency, and one (1) or more of those applications is not deemed complete to enter the review cycle, the other applications that are deemed complete shall enter the review cycle. The application or applications that are not deemed complete to enter the review cycle will not be considered with the applications deemed complete and entering the review cycle.

(5) Review cycles shall begin on the first day of each of the following months: January, March, May, July, September, and November; provided, that the agency may expand the beginning of the review cycle to other months by rule. Written notice of the beginning of the review cycle will be made to all applicants deemed complete by the agency for that review cycle. The review cycle shall also be distributed to the members of the agency. If an application is not deemed complete within sixty (60) days after written notification is given to the applicant by the agency staff that the application is deemed incomplete, the application shall be deemed void. If the applicant decides to re-submit the application, the applicant shall comply with all procedures as set out by this part and a new filing fee shall accompany the application.

(6) Each application filed with the agency shall be accompanied by a nonrefundable examination fee which will be fixed by the rules of the agency.

(7) All information provided in the application or any information submitted to the agency in support of an application shall be true and correct. No substantive amendments to the application, as defined by rule of the agency, shall be allowed.

(8) Each applicant shall designate a representative as the contact person for the applicant and shall notify the agency, in writing, of the contact person's name, address, and telephone number. The applicant shall immediately notify the agency in writing of any change in the identity of the contact person or the contact person's address. In addition to any other method of service permitted by law, the agency may serve by registered or certified mail any notice or other legal document upon the contact person at such person's last address of record in the files of the agency. Notwithstanding any provisions of law to the contrary, service in the manner specified herein shall be deemed to constitute actual service upon the applicant.

(d)(1) No communications are permitted with the members of the agency once the letter of intent initiating the application process is filed with the agency. Communications between agency members and agency staff shall not be prohibited. Any communication received by an agency member from a person unrelated to the applicant or party opposing the application shall be reported to the executive director and a written summary of such communication shall be made part of the certificate of need file.

(2) All communications between the contact person or legal counsel for the applicant and the executive director or agency staff after an application is deemed complete and placed in the review cycle are prohibited unless submitted in writing or confirmed in writing and made part of the certificate of need application file. Communications for the purposes of clarification of facts and issues that may arise after an application has been deemed complete and initiated by the executive director or agency staff are not prohibited.

(e) For purposes of this of this part, agency action shall be the same as administrative action defined in § 3-6-102.

(f)(1) Notwithstanding the provisions of this section to the contrary, Tennessee state veterans' homes pursuant to the provisions of title 58, chapter 7 shall not be required to obtain a certificate of need pursuant to this section.

(2) Notwithstanding the provisions of this section to the contrary, the beds located in any Tennessee state veterans' home pursuant to the provisions of title 58, chapter 7 shall not be considered by the health services and development agency when granting a certificate of need to a health care institution due to a change in the number of licensed beds, redistributing beds, or relocating beds pursuant to the provisions of this section.

(g) A hospital with fewer than one hundred (100) licensed beds may increase its total number of licensed beds by ten (10) beds over any period of one (1) year without obtaining a certificate of need. The hospital shall provide written notice of the proposed increase in beds to the agency on forms provided by the agency, prior to the hospital's request for review to the board of licensing health care facilities.

(h) After a person holding a certificate of need has completed the actions for which a certificate of need was granted, such certificate of need shall expire.

(i) The owners of the following types of equipment shall register such equipment with the health services and development agency: computerized axial tomographers, lithotripters, magnetic resonance imagers, linear accelerators and position emission tomography. The registration shall be in a manner and on forms prescribed by the agency and shall include ownership, location, and the expected useful life of such equipment. The first registration of all equipment as listed above shall be on or before September 30, 2002. Thereafter, registration shall occur within ninety (90) days of acquisition of the equipment. All such equipment shall be filed on an annual inventory survey developed by the agency. The survey shall include but not be limited to the identification of the equipment and utilization data according to source of payment. The survey shall be filed no later than thirty (30) days following the end of each state fiscal year. The agency is authorized to impose a penalty not to exceed fifty dollars (\$50) for each day the survey is late.

(j) Notwithstanding the provisions of this section to the contrary, an entity, or its successor, that was formerly licensed as a hospital, and which has received from the commissioner of health a written determination that it will be eligible for designation as a critical access hospital under the medicare rural hospital flexibility program, is not required to obtain a certificate of need to establish a hospital qualifying for such designation, if it meets the requirements of this subsection. In order to qualify for the exemption set forth in this subsection, the entity proposing to establish a critical access hospital must publish notice of its intent to do so in a newspaper of general circulation in the county where the hospital will be located and in contiguous counties. Such notice shall be published at least twice within a fifteen-day period. The written determination from the department of health and proof of publication required by this subsection shall be filed with the agency within ten (10) days after the last date of publication. If no health care institution within the same county or contiguous counties files a written objection to the proposal with the agency within thirty (30) days of the last publication date, then the exemption set forth in this subsection shall be applicable; provided, this exemption shall apply only to the establishment of a hospital that qualifies as a critical access hospital under the medicare rural flexibility program and not to any other activity or service. If a written objection by a health care institution within the same county or contiguous counties is filed with the agency within thirty (30) days from the last date of publication, then the exemption set forth in this subsection shall not be applicable.

(k)(1) A nursing home may increase its total number of licensed beds by the lesser of ten (10) beds or ten percent (10%) of its licensed capacity over any period of one (1) year without obtaining a certificate of need. The nursing home shall provide written notice of the increase in beds to the agency on forms provided by the agency prior to the request for licensing by the board for licensing health care facilities.

(2) For new nursing homes, the ten (10) bed or ten percent (10%) increase cannot be requested until one (1) year after the date all of the new beds were initially licensed.

(3) When determining projected county nursing home bed need for certificate of need applications, all notices filed with the agency pursuant to § 68-11-1607(k)(1) with written confirmation from the board of licensing health care facilities that a request and application for license has been received and a review has been scheduled, shall be considered with the total of licensed nursing home beds plus the number of beds from approved certificates of need, but yet unlicensed.

(4) During such time as the provisions of § 68-11-1622 shall apply, the provisions of § 68-11-1607(k) shall be suspended.

Section 68-11-1608. (a) The departments of health and mental health and developmental disabilities shall review each application whose subject matter or funding is within their respective jurisdictions according to the process described in the rules of the health services and development agency. At a minimum, the reports shall provide:

(1) Verification of applicant-submitted information;

(2) Documentation or source for data;

(3) A review of the applicant's participation or non-participation in TennCare or its successor;

(4) Analyses of the impact of a proposed project on the utilization of existing providers and the financial consequences to existing providers from any loss of utilization that would result from the proposed project;

(5) Specific determinations as to whether a proposed project is consistent with the state health plan; and

(6) Further studies and inquiries necessary to evaluate the application pursuant to the rules of the agency.

(b) Upon request by interested parties or at the direction of the executive director, the staff of the agency shall conduct a fact-finding public hearing on the application in the area in which the project is to be located.



(c) Reviewing agencies shall have no more than sixty (60) days from the agency notice required by this part to file its written report with the agency. A copy of the evaluation made by the department shall be forwarded to the applicant, and to the agency, and shall be made available to others upon their request.

(d) The executive director may establish a date of less than sixty (60) days for reports on applications that are to be considered for a consent or emergency calendar established in accordance with agency rule. Any such rule shall provide that in order to qualify for the consent calendar, an application must not be opposed by any person with legal standing to oppose and the application must appear to meet the established criteria for the issuance of a certificate of need. If opposition is stated in writing prior to the application being formally considered by the agency, it will be taken off the consent calendar and placed on the next regular agenda, unless waived by the parties.

Section 68-11-1609. (a) The agency shall, upon consideration of an application and review of the evaluation and other relevant information thereon:

(1) Approve part or all of the application and grant a certificate of need for the same, upon any lawful conditions that the agency deems appropriate and enforceable on the grounds that those parts of the proposal appear to meet applicable criteria.

(A) Any such condition or conditions which are placed on a certificate of need, and which appear on the face of the certificate of need when issued shall also be made condition or conditions of any corresponding license issued, by the departments of health or mental health and developmental disabilities. Notwithstanding any provision of law to the contrary, any such conditions survive the expiration of the certificate of need, and remain effective until removed or modified by the agency. Such conditions shall become a requirement of licensure and shall be enforced by the respective licensing entity.

(B) The holder of a license or certificate of need which has a condition placed upon it by the agency may subsequently request that the condition be removed or modified, for good cause shown. The agency will consider the request and determine whether or not to remove or modify the condition. The procedure for requesting such a determination will be as provided by agency rules. If the holder of the license or certificate of need is aggrieved by the agency's decision, it may request a contested case hearing as permitted by this part.

(2) Disapprove part or all of the application and deny a certificate of need for the same on the grounds that the applicant has not affirmatively demonstrated that those parts of the proposal meet the applicable aforementioned criteria.

(3) Defer decisions for no more than ninety (90) days to obtain a clarification of information concerning applications properly before the agency if there are no simultaneous review applications being concurrently considered by the agency with the deferred application.

(b) No certificate of need shall be granted unless the action proposed in the application is necessary to provide needed health care in the area to be served, can be economically accomplished and maintained, and will contribute to the orderly development of adequate and effective health care facilities and/or services. In making such determinations, the agency shall apply the goals, objectives, criteria and standards in the state health plan, developed in accordance with § 68-11-1625. Additional criteria for review of applications shall also be prescribed by the rules of the agency. Notwithstanding any other provision of this subsection, when considering applications for new nursing home beds from the one hundred twenty-five bed medicare skilled nursing facility bed pool authorized in § 68-11-1622, the agency shall apply the criteria in this subsection. All other applications for new nursing home beds shall be governed solely by the provisions of § 68-11-1621. During the period of July 1, 2002 to June 30, 2003, the agency shall issue no certificates of need for new nursing home beds other than the one hundred twenty-five (125) medicare SNF beds authorized in § 68-11-1622.

(c) A certificate of need is valid for a period not to exceed three (3) years (for hospital projects) and two (2) years (for all other projects) from the date of its issuance and after such time shall expire; provided, that the agency may, in granting the certificate of need, allow longer periods of validity for certificates of need for good cause shown. Subsequent to granting the certificate of need, the agency may extend a certificate of need for a period upon application and good cause shown, accompanied by a nonrefundable reasonable filing fee, as prescribed by rule. An extension cannot be issued to any applicant unless substantial progress has been demonstrated. A certificate of need which has been extended shall expire at the end of the extended time period. The decision whether to grant such an extension is within the sole discretion of the agency, and is not subject to review, reconsideration, or appeal.

(d) A certificate of need which has expired is null and void, and of no effect. No revocation proceeding is required. No license or occupancy approval can be issued by the department of health or the department of mental health and developmental disabilities for any activity for which a certificate of need has become null and void.

(e) The agency's decision to approve or deny an application shall be final and shall not be reconsidered after the adjournment of the meeting in which the matter was considered. This provision does not limit the right to file a petition for a contested case hearing pursuant to § 68-11-1610, nor does it limit the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3, pertaining to contested case hearings.

(f) Written notice of the decision of the agency approving, disapproving, or deferring an application, or parts thereof, shall be transmitted to the applicant, simultaneous review applicants, the department of health, the department of mental health and developmental disabilities, and others upon request.

(g)(1) Subject to subdivision (g)(2), any health care institution wishing to oppose a certificate of need application must file a written objection with the agency and serve a copy on the contact person for the applicant, not later than fifteen (15) days before the agency meeting at which the application is originally scheduled. An application for which the agency has received opposition shall be designated on the agency's agenda as an opposed application.

(2) A health care institution or other person may appear before the agency and express opposition to an application without complying with the requirements of subdivision (1); provided, that if a health care institution does not provide notice of its opposition as required by subdivision (1), and if such health care institution initiates a contested case pursuant to § 68-11-1610, then such health care institution shall be solely responsible for the agency's costs of the contested case proceeding and shall reimburse to the applicant the filing fee paid by the applicant, notwithstanding any other provision of law. Noncompliance with subdivision (1) shall not preclude a health care institution from intervening in a contested case proceeding initiated by the applicant.

Section 68-11-1610. (a) Within fifteen (15) days of the approval or denial by the agency of an application, any applicant, health care institution which filed a written objection in accordance with § 68-11-1609(g)(1), or any other person who objected to the application pursuant to § 68-11-1609 (g)(2), may petition the agency in writing for a hearing. Such petition shall be filed with the executive director. Notwithstanding any other provision of the law, all persons are barred from filing any petition for contested case hearing after such fifteen-day (15) period, and the agency shall have no jurisdiction to consider any late-filed petition. Upon receipt of a timely petition, the agency shall initiate a contested case proceeding as provided herein. At the hearing, no issue may be raised or evidence considered concerning the merits of an applicant considered by simultaneous review, unless the applicant met the requirements of this part of concurrent consideration with the application, which is the subject of the hearing.

(b) The contested case hearing required by this section shall be conducted in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, chapter 5, except as otherwise provided in this section.

(c) Contested cases initiated pursuant to this section shall be heard by an administrative law judge sitting alone. Petitions for contested cases received by the agency shall be forwarded immediately to the administrative division of the secretary of state's office for assignment to an administrative law judge.

(d) The administrative law judge to whom a case has been assigned shall convene the parties for a scheduling conference within fifteen (15) days of the date the petition for contested case is filed. At the scheduling conference, the parties shall state their respective positions on the arbitration and mediation alternatives described in this section below. If the parties are unable to agree on either the arbitration or mediation alternative, the scheduling order for the contested case adopted by the administrative law judge shall establish a schedule that results in a hearing completed within one hundred eighty (180) days of the date on which the petition for contested case was received by the agency, with the initial order to be entered within sixty (60) days of the date the hearing is completed. Extensions of time or variances from the scheduling order shall be granted sparingly, and only because of unforeseen developments that would cause substantial prejudice to a party.

(e) Initial orders of the administrative law judge in contested cases shall be reviewable upon request by the agency in accordance with the Uniform Administrative Procedures Act.

(f)(1) As an alternative to a contested case heard by an administrative law judge sitting alone, a contested case convened pursuant to this section may be decided through an arbitration process, as described herein, if all parties agree to such arbitration process.

(2) If the parties elect the arbitration process, an arbitrator shall be designated by mutual agreement of the parties, or in the event the parties cannot agree on an arbitrator, the administrative law judge to which the case is assigned shall designate an arbitrator from a list provided by the agency staff. The arbitrator shall have no personal or business relationships with any of the parties that would require recusal under the code of judicial conduct.

(3) The scheduling order requirements set forth in (c)(2) above shall not apply to arbitration proceedings conducted pursuant to this subsection.

(4) The administrative law judge shall remain assigned to the arbitration proceeding and shall rule on all matters relative to discovery, procedures and questions of law. At the arbitration hearing, the administrative law judge shall preside in the same manner as if the administrative law judge were sitting with an agency in a contested case.

(5) The arbitrator, in his or her discretion, may develop requests for documents or data to be submitted by the parties under oath. The administrative law judge shall enforce compliance with such requests.

(6) The findings of the arbitrator shall constitute the initial order in the case, unless the administrative law judge determines that the findings are based on a mistake or are unsupported by credible evidence. In the event the administrative law judge rejects the arbitrator's findings, the administrative law judge shall adopt a substitute initial order.

(7) The initial order in an arbitration proceeding shall be reviewed by the agency in accordance with the Uniform Administrative Procedures Act.

(f) As an additional alternative to the contested case process described in (c) above, the parties may agree to mediation of the issues raised in the contested case. The mediator shall be designated by mutual agreement of the parties. The parties may designate a mediator who is not listed as a qualified Rule 31 mediator, but such mediator shall observe the standards of professional conduct set forth in Appendix A to Rule 31, to the extent applicable. The mediator's fee shall be shared equally among the parties, except the state shall not be required to contribute to payment of the mediator's fee. If mediation results in agreement of the parties, such agreement shall be memorialized in the order terminating the contested case. A mediation proceeding under this subsection shall not be subject to the scheduling order requirements set forth in (c)(2) above.

(g) The general assembly declares the policy of the state to be that certificate of need contested cases should be resolved through arbitration or mediation, and the parties to such proceedings are encouraged to pursue these alternatives.

(h) Judicial review of the agency's final order in a contested case shall be as provided by law.

(i) All costs of the contested case proceeding, including the administrative law judge's costs, the arbitrator's fee, if any, and deposition costs, including fees of expert witnesses, shall be assessed against the losing party in the contested case. If there is more than one losing party, the costs shall be divided equally among the losing parties. No costs shall be assessed against the agency.

(j) The provisions of this section shall govern all contested cases relative to approval or denial decisions by the agency. Contested cases initiated with respect to certificate of need decisions by the health facilities commission shall be conducted in accordance with the Uniform Administrative Procedures Act and not by this section.

Section 68-11-1611. The agency shall, at least annually, review progress on any project covered by an issued certificate of need, and may require a showing by the holder of such certificate of substantial and timely progress to implement the project, and if, in the opinion of the executive director, such progress is lacking, the executive director may present a petition for revocation of the certificate of need for the agency's consideration. The agency may revoke the certificate of need based upon a finding that the holder has not proceeded to implement the project in a timely manner.

Section 68-11-1612. (a) The agency, in addition to the powers and duties expressly granted by this part, is authorized and empowered to petition any circuit or chancery court having jurisdiction to enjoin any person who is performing any of the actions specified in this part without possessing a valid certificate of need for the same.

(b) Jurisdiction is conferred upon the circuit and the chancery courts of the state to hear and determine such causes as chancery causes, and to exercise full and complete jurisdiction in such injunctive proceedings.

Section 68-11-1613. The division of TennCare or its successor by the fifteenth of each month, shall submit to the chairs of the senate and house finance, ways and means committees a statement reflecting the estimated impact on future state appropriations and/or expenditures of applications approved by the agency the preceding month.

Section 68-11-1614. (a) The commissioners of health and mental health and developmental disabilities shall establish policies and procedures to ensure independent review and verification of information submitted to the agency in applications, presentations, or otherwise.

(b) The purpose of such independent review and verification shall be to ensure that such information is accurate, complete, comprehensive, timely, and relevant to the decision to be made by the agency.

(c) The policies and procedures shall include, but not necessarily be limited to:

(1) Independent review and verification of such applicant-provided information as to the number of available beds within a region, occupancy rates, the number of individuals on waiting lists, the demographics of a region, the number of procedures, as well as any other critical information submitted or requested concerning an application;

(2) Staff examinations of data sources, data input, data processing, and data output, as well as verification of critical information through review procedures to include one (1) or more of the following:

(A) Analytical review;

(B) Tests for information on a sample basis by tracing facts to sources;

(C) Tests of all information provided, if necessary;

(D) Critical assessment of data sources, including the appropriateness of the sources; and

(E) Examination of the basis for projections of need, costs and available health services.

Section 68-11-1615. The commissioners of health and mental health and developmental disabilities shall establish policies and procedures to ensure independent review and verification of information submitted by health care providers for inclusion in the joint annual report.

Section 68-11-1616 Each decision rendered by the health services and development agency shall include written documentation and explanation of the factual and legal basis upon which the agency grants or denies the certificate of need.

Section 68-11-1617. (a) The agency has the power and authority, after notice and an opportunity for a hearing, to impose a civil monetary penalty against any person who performs, offers to perform, or holds such person out as performing any activity for which a certificate of need is required, without first obtaining a valid certificate of need.

(b) A civil penalty proceeding shall be initiated by the executive director of the agency with the filing a petition with the agency. The proceeding will be conducted as a contested case hearing in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3. The agency will first determine whether the person is performing, offering to perform, or holding such person out as performing any activity for which a certificate of need is required, without having first obtained a valid certificate of need. If the agency finds such a violation, the agency may impose a civil penalty, which shall begin running prospectively on the effective date of the final order as defined below in this section.

(c) The civil penalty shall be in an amount not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) per day of continued activity or operation, after the effective date of the final order. Notwithstanding any provision of law to the contrary, the effective date of the final order shall be the thirty-first day following entry of the final order. Once a civil penalty has been imposed, the violator shall have the burden of submitting verifiable evidence satisfactory to the agency, that the violator has discontinued the activity for which the civil penalty was imposed. The penalty shall accrue from the effective date until such evidence of discontinuance is received at the agency office.

(d) If the violator does not appeal to chancery court pursuant to § 4-5-322, the penalty shall become due and payable on the sixty-first day following entry of the final order. If the violation continues, the amount of the civil penalty will continue to accrue, and the violator shall make monthly payments of the accrued amount to the agency.

(e) If an appeal is taken pursuant to § 4-5-322, the penalty shall be due and payable on the thirty-first day following entry of an order of the final appellate court ruling on the matter, if the penalty is upheld. If the violation continues during the pendency of the appeal, the amount of the penalty will continue to accrue. If the violator fails to pay the civil penalty when due, the agency may apply to the chancery court of Davidson County to have the penalty converted to a judgment, and seek execution of such judgment. In any such proceeding, the chancery court shall convert the civil penalty to a judgment unless the court finds the agency acted in the clear absence of any jurisdiction whatsoever.

(f) In determining whether to impose a civil penalty and the amount thereof, the agency may consider the following factors:

(1) The economic benefits gained from the activities in question. The agency does not have to show that the violator would not have been granted a certificate of need had one been sought;

(2) Whether the civil penalty and the amount thereof, will be a substantial economic deterrent to the violator and others;

(3) The circumstances leading to the violation, and whether the violator had notice that the activity was in violation of the certificate of need laws and/or agency regulations; and

(4) The financial resources of the violator, and the violator's ability to pay the penalty.

Section 68-11-1618. Notice must be made to the agency of change of ownership occurring within two (2) years of the date of the initial licensure of a health care institution. Such notice must be made within thirty (30) days of the change of ownership and must include documentation of the commitment from the subsequent owner to comply with all conditions placed on the original certificate of need, and on the license, pursuant to this part.

Section 68-11-1619. (a) In addition to any other grounds for revocation provided by other statutes, rule of law, or equity, the agency has the power to revoke a certificate of need whenever any of the following has occurred:

(1) The holder of a certificate of need has not made substantial and timely progress toward the completion of the project or acquisition of the equipment;

(2) The acquisition or project as described in the person's application has been changed or altered in such a manner as to significantly deviate from the acquisition or project approved by the agency when the certificate of need was granted;

(3) The decision to issue a certificate of need was based, in whole or in part, on information or data in the application which was false, incorrect, or misleading, whether intentional or not;

(4) The holder of the certificate of need has committed fraud in obtaining the certificate of need or has committed fraud upon the agency after the certificate of need was issued. For purposes of this section, "fraud" means any form of deceit, trickery, misrepresentation, or subterfuge, including, but not limited to, any of the following actions:

(A) Making a knowingly false statement, orally or in writing, in connection with a certificate of need application or project subject to the jurisdiction of the agency;



(B) Intentionally withholding or suppressing information which the person knows, or reasonably should know, is relevant to a certificate of need application or project subject to the jurisdiction of the agency;

(C) Altering, forging, or otherwise modifying, with fraudulent intent, any document submitted to the agency in connection with any certificate of need application or project subject to the jurisdiction of the agency; or

(5) The violation of any condition placed upon a certificate of need by the agency, prior to licensure by the department of health or department of mental health and developmental disabilities.

Section 68-11-1620. (a) Except as provided in this section, the transfer of a certificate of need shall render it and all rights thereunder null and void. As used in this section, "transfer" means:

(1) Any sale, assignment, lease, conveyance, purchase, grant, donation, gift or any other direct or indirect transfer of any nature whatsoever of a certificate of need; provided, that nothing herein shall prohibit the transfer of a certificate of need, other than a certificate of need for the establishment of a new health care institution, if the certificate of need is transferred as part of the transfer of ownership of an existing health care institution;

(2) With regard to a certificate of need for the establishment of a proposed new health care institution, a change of control of the entity prior to completion or licensing shall render the certificate of need and all rights thereunder null and void. "Change of control" means:

(A) In the case of a partnership, the termination of interest of a general partner;

(B) In the case of a limited liability company or limited liability partnership, a change in the composition of members or partners to the extent that the management or membership control is different than that described in the certificate of need application.

(C) In the case of a corporation, the termination of interest of a shareholder or shareholders controlling more than fifty percent (50%) of the outstanding voting stock of the corporation.

(D) Nothing in subdivision (a)(2) shall prohibit change of control as described herein if the agency determines, upon petition of the prospective owner or owners of the entity, that such prospective owner or owners demonstrate that they meet the criteria of economic feasibility, contribution of orderly development and the considerations of section § 68-11-1605.

(b) A certificate of need, and the rights thereunder, shall be null and void if it is the subject of a development contract or agreement to sell or lease the facility that was not fully disclosed in the application.

Section 68-11-1621. (a) Notwithstanding the provisions of the state health plan or any regulation of the agency, the provisions of this section establish the criteria for issuance of certificates of need for new nursing home beds regardless of site (including conversion of any beds to licensed nursing home beds). The agency is authorized to grant a certificate of need only if the applicant meets all of the requirements of this section.

(b) The first criterion which must be met is the need for the project:

(1) The need for nursing home beds shall be determined by applying the following population-based methodology:

County bed need = .0004 times population of the county  
sixty-five (65) years of age and under; plus,

0.01 x population age 65-74; plus,

0.04 x population age 75-84; plus,

0.15 x population age 85 and over.

When applying the foregoing bed need formula, the agency shall use the formula in effect at the time of initial consideration of an application rather than a formula in effect at the time of application. County population statistics shall be based upon official statistics provided by the department of health.

(2) The need for nursing home beds shall be projected two (2) years into the future from the current year, and

(3) The actual bed need shall be derived by subtracting the projected bed need from a bed total comprised of the number of nursing home beds licensed in the county plus certificate of need approved, but yet unlicensed beds.

(c) The second criterion which must be met is economic feasibility:

(1) The application must show and the agency must find that the project will meet or exceed the following parameters:

(A) A debt service coverage ratio greater than or equal to 1.25 by the end of the second year of projection. Debt service coverage ratio is net income before depreciation and interest expense divided by the annual debt service;

(B) A current ratio greater than or equal to 1.25 by the end of the second year of projections. Current ratio is current assets divided by current liabilities;

(C) Day's cash on hand greater than or equal to fifteen (15) days at the end of each year of projection. Day's cash on hand is cash plus equivalents divided by net operating expenses per day minus depreciation per day; and

(D) Long term debt as a percent of total capital less than or equal to ninety percent (90%). Long term debt as a percent of total capital is long term debt divided by long term debt plus shareholders' equity or fund balance; and

(2) The applicant must show and the agency must evaluate the project with reference to:

(A) Whether sufficient financial resources are available to implement and operate the project including levels of patient charges and proof of potential capital financing;

(B) The long range amortization of the project plus any cost associated with the original building if the proposed project is an addition or conversion of current space;

(C) A comparison of the cost of similar projects, including any construction costs, during the preceding year; and

(D) Projection of total costs over expected life of facility.

(d) When considering simultaneous review of two (2) or more applications for nursing home beds in the same county the agency shall consider the following criteria in addition to need and economic feasibility:

(1) Any unique qualities or characteristics the application exhibits that distinguish it from other nursing homes, in the form of clientele served or services offered;

(2) The extent to which each project proposes to meet any unmet needs of the area's population; and

(3) The comparative costs of the projects. In simultaneous review applications the focus shall be more on comparing the cost to the patient or payment source than a comparison of per bed or per square foot costs.

(e) The agency shall not approve the settlement of an appeal of the denial or issuance of a certificate of need if such settlement approves a project which does not meet the requirements of this section.

Section 68-11-1622. (a) During the fiscal year July 1, 2002 to June 30, 2003, the agency shall issue no certificates of need for new nursing home beds, including the conversion of hospital beds to nursing home beds or swing beds, other than one hundred twenty-five (125) beds per fiscal year, to be certified as medicare skilled nursing facility (SNF) beds as authorized in this section.

(b) The number of medicare SNF beds issued under this subsection shall not exceed thirty (30) for each applicant. The applicant shall specify in the application the skilled services to be provided and how the applicant intends to provide such skilled services. In reviewing applications, the agency shall consider the application without regard as to whether the applicant currently has medicare SNF beds. Applications for medicare SNF beds under this subsection shall be reviewed by the department and considered by the agency pursuant to § 68-11-1609, rather than § 68-11-1621. If the pool of one hundred twenty-five (125) medicare SNF beds created by this subsection is not depleted prior to June 30 of the fiscal year, the beds remaining in such pool shall be considered to be available to applicants who apply before June 30 of each fiscal year, even though review may occur after June 30 of that year.

Section 68-11-1623. All fees authorized by this part shall be maintained in a separate account administered by the health services and development agency. Fees include, but are not limited to, fees for the application of certificates of need, subscriptions, project cost-overruns, copying and contested cases. The account is established for the purpose of providing support for the implementation of the certificate of need program, data collection and the administration of the agency. It is the intent of the general assembly that the funds in this account shall not revert to the state general fund, but shall instead be carried forward for the purpose for which they were originally intended. It is also the intent of the general assembly that any accumulated revenues in excess of expenditures of the health facilities commission upon the date the health facilities commission ceases to exist shall be deposited in the agency account as created by this part for the administration of the certificate of need program. Furthermore, it is the intent of the general assembly that funds allocated for the fiscal year 2001-2002 for the health facilities commission shall fund the health services and development agency for the remainder of that same fiscal year. The executive director shall prepare a budget for submission and approval of the general assembly for each fiscal year thereafter.

Section 68-11-1624. At a hearing conducted by the agency for a nonresidential methadone treatment facility, if a local governing body requests to participate in such hearing, the officials of such governing body shall have the opportunity to appear before the agency and express support and/or opposition to the granting of a certificate of need to the applicant. The testimony of such officials shall be informational and advisory to the agency and the support of the local governing body shall not be a requirement for the granting of a certificate of need by the agency.

Section 68-11-1625. (a) (1) There is created a state health planning and advisory board composed of thirty-four (34) members. Twenty-four (24) members shall be appointed by the governor, three (3) appointed by the speaker of the senate, and three (3) appointed by the speaker of the house of representatives. The commissioners of the departments of health and mental health and developmental and disabilities shall serve as ex officio voting members. The chairmen of the finance, ways and means committees of the senate and the house of representatives shall serve as ex officio voting members. The members appointed by the governor shall be composed as follows:

(A) One (1) member from a medical school located in Tennessee;

(B) One(1) member who is a physician/surgeon as recommended by the Tennessee medical association or other similar major statewide association;

(C) One (1) member who is a registered nurse as recommended by the Tennessee nurses association or other similar major statewide association;

(D) One (1) member representing county governments as recommended by the Tennessee county services association or other similar major statewide association;

(E) One (1) member representing municipal governments as recommended by the Tennessee municipal league or other similar major statewide association;

(F) One (1) member representing rural hospitals as recommended by the Tennessee hospital association or other similar major statewide association;

(G) One (1) member representing government owned hospitals as recommended by the Tennessee hospital association or other similar major statewide association;

(H) One (1) member representing public and teaching hospitals as recommended by the Tennessee hospital association or other similar major statewide association;

(I) One (1) member representing urban hospitals as recommended by the Tennessee hospital association or other similar major statewide association;

(J) One (1) member representing rural nursing homes as recommended by the Tennessee health care association or other similar major statewide association;

(K) One (1) member who is a primary care physician as recommended by the Tennessee medical association or other similar major statewide association;

(L) One (1) member representing the private insurance industry as recommended by the Tennessee farm bureau federation or other similar major statewide association;

(M) One (1) member representing urban nursing homes as recommended by the Tennessee health care association or other similar major statewide association;

(N) One (1) member representing home health agencies as recommended by the Tennessee association of home care or other similar major statewide association;

(O) One (1) member representing hospices as recommended by the Tennessee association of home care or other similar major statewide association;

(P) One (1) member representing small businesses as recommended by the Tennessee chapter for the national federation of independent business or other similar major statewide association;

(Q) One (1) member representing organizations for the population over the age of sixty-five (65) years as recommended by the AARP or other similar major statewide association;

(R) One (1) member representing providers of mental health services as recommended by the Tennessee association of mental health organizations or other similar major statewide association;

(S) One (1) member representing the providers of developmental disability services as recommended by the Tennessee disability association or other similar major statewide association;

(T) One (1) member representing the state insurance committee;

(U) One (1) member representing labor as recommended by the Tennessee AFL-CIO labor council or other similar major statewide association;

(V) One (1) member representing organizations for indigent and underserved populations as recommended by the Tennessee justice center;

(W) One (1) member representing a businesses with more than one hundred fifty (150) employees as recommended by the Tennessee association of business or other similar major statewide association; and

(X) One (1) member recommended by the volunteer state medical association.

(2) The terms of the appointments shall be three (3) years. The terms shall be staggered so that the initial term for the first eight (8) members shall be one (1) year; the initial term for the second eight (8) members shall be two (2) years; and the term for the remaining eight (8) members shall be three (3) years. The speakers shall make their initial appointments designating one for a term of one (1) year, one for a term of two (2) years and one for a term of three (3) years. Following the initial terms, all terms shall be three (3) years. No member shall serve more than two consecutive, three-year terms.

(3) In making appointments to the state health planning and advisory board, the governor and the speakers shall strive to ensure that racial minorities, females, and persons sixty (60) years of age are represented.

(4) The members appointed by the speakers shall be persons who are knowledgeable of health needs and services and representative of the consumers of health care in Tennessee. The members shall not be a direct provider of health care goods or services.

(5) Members of the board shall be subject to removal by the governor or the speakers accordingly for neglect of duty or failure to attend at least 75% of the meetings of the board in any year. Vacancies shall be filled by the governor or speakers as appropriate.

(6) The member representing a medical school located in Tennessee shall serve as chairperson.

(7) Twenty-two (22) members shall constitute a quorum. The members shall elect a vice-chairman at the first meeting of the fiscal year.

(8) Members of the board that are not employed by the state will not be paid for their service. Each member will be reimbursed for travel expenses in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration.

(9) A separate account is authorized to provide support for the state health planning and advisory board. The following schedule of fees from healthcare providers shall be collected annually and administered by the health services and development agency. The account shall be used for the services required to fulfill the duties of the state health planning and advisory board. All planning staff shall be hired by and under the direction of the executive director of the health services and development agency. The following schedule shall apply:

(A) Residential hospice---\$100 per license;

(B) Nursing homes---\$100 per license;

(C) Hospitals 1-100 beds---\$100 per license;

(D) Hospitals 101-200 beds---\$200 per license;

(E) Hospitals 201+ beds---\$300 per license

(F) Ambulatory surgical treatment centers---\$100 per license;

(G) Outpatient diagnostic centers---\$100 per center

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- (H) Home care organizations---\$100 per license;
- (I) Homes for the aged---\$50 per license
- (J) Birthing centers---\$50 per license
- (K) Assisted living facilities---\$100 per license;
- (L) Alcohol and drug facilities (including non-residential methadone treatment facilities)---\$75 per license;
- (M) Mental health hospitals 1-100 beds---\$100 per license;
- (N) Mental health hospitals 101+ beds---\$200 per license;
- (O) Mental health residential treatment facilities---\$100 per license; and
- (P) Mental retardation institutional habilitation facilities---\$100 per license.

(b) It is the purpose of the board to develop a state health plan that is evaluated and updated at least annually. The plan shall guide the state in the development of health care programs and policies, and the allocation of health care resources in the state.

(c) It is the policy of the state of Tennessee that every citizen have reasonable access to emergent and primary care; that the state's health care resources are developed to address the needs of Tennesseans while encouraging competitive markets, economic efficiencies and the continued development of the state's health care industry; that every citizen can have confidence that the quality of health care is continually monitored and standards are adhered to by health care providers and that the state supports the recruitment and retention of a sufficient and quality health care workforce.

(d) The board shall be staffed administratively by the agency until such time that the agency has developed a planning and data resources staff. The agency staff shall coordinate the agendas and request the assistance of other agencies such as the departments of health and mental health and developmental disabilities to assist in the areas and programs under their jurisdiction by providing testimony, data and reports.

(e) The duties and responsibilities of the board include:

- (1) To develop and adopt a state health plan;
- (2) To submit the plan to the health services and development agency for comment;
- (3) To submit the state health plan to the governor for his approval and adoption;



- (4) To hold public hearings as needed;
- (5) To review and evaluate the plan at least annually;
- (6) To respond to requests for comment and recommendations for health care policies and programs;
- (7) To conduct an ongoing evaluation of Tennessee's resources for accessibility, including but not limited to financial, geographic, cultural, and quality of care;
- (8) To review the health status of Tennesseans as presented annually to the board by the department of health and the department of mental health and developmental disabilities;
- (9) To review and comment on federal laws and regulations that influence the health care industry and the health care needs of Tennesseans;
- (10) To involve and coordinate functions with such state entities as necessary to ensure the coordination of state health policies and programs in the State;
- (11) To prepare an annual report for the general assembly and recommend legislation for their consideration and study; and
- (12) To establish a process for timely modification of the state health plan in response to changes in technology, reimbursement and other developments that affect the delivery of health care.

(f) At the first meeting of the board, the members shall review current criteria and standards developed by the health planning commission in 2001, and adopt the criteria and standards as guidance for the issuance of certificates of need until such time as a new state health plan is developed. The board may make subsequent changes to the criteria and standards pending development of the new state health plan.

Section 68-11-1626. After appointment of the health services and development agency members pursuant to this part, such members shall meet as soon as practicable for organizational and other purposes. It is the intent of the general assembly that the agency shall be fully and solely responsible for administration of the certificate of need process on July 1, 2002. Jurisdiction of the agency over the certificate of need process shall be effective simultaneously with the cessation of the health facilities commission, and there shall be no period in which a certificate of need is not required for the actions set forth in § 68-11-1607.

SECTION 5. The rules and regulations promulgated by the health facilities commission as of the effective date of this act shall remain in effect and become the rules and regulations of the health services and development agency until the agency promulgates new rules and regulations; provided, however, those rules and regulations of the health facilities commission contrary to this act shall be null and void as of July 1, 2002.

SECTION 6. This act shall not affect rights and duties that matured, penalties that were incurred or proceedings that were begun before its effective date by the agency existing prior to the effective date. It is the intent of the general assembly that all pending applications, contested cases and other matters proceed without interruption during the transition of authority between the health facilities commission and the health services and development agency. After the health facilities commission ceases to exist, the health services and development agency shall succeed to all the rights, powers and interests relative to such applications, contested cases and other matters. All rights and conditions assigned to existing certificates of need shall continue.

SECTION 7. (a) It is the intent of the general assembly that all property assigned to the health facilities commission be transferred to the health services and development agency. The agency shall have full authority over all administrative and budget processes transferred to the agency from the health facilities commission.

(b) Recognizing the years of faithful and dedicated service to the state of Tennessee by the employees of the health facilities commission, it is the intention of the general assembly that those employees who serve in jobs that would be classified as career service, as defined in § 8-30-208, receive the benefits and protection of career service status upon passage of this act without further examination or competition, provided that such employees must have completed at least six (6) months of service with the health facilities commission upon the effective date of this act.

(c) In addition to the designations of career service and executive service in § 8-30-208, the following shall be included in the executive service:

(1) The executive director of the agency; and

(2) Any attorneys employed by the agency.

(d) The executive director shall be appointed by the agency in accordance with § 68-11-1606 at the first meeting of the agency and serve as the appointing authority for the agency. All other executive service staff shall serve at the pleasure of the appointing authority. During the time period between the effective date of this act and the appointment by the agency of an executive director, the executive director of the health facilities commission shall serve as the interim executive director with oversight and consultation by the comptroller of the treasury. The interim director shall have all the responsibilities, powers and duties delegated to the executive director of the agency by this act.

## **WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY**

SECTION 8. If any provision of this act of the application of it to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 9. The act shall take effect upon becoming law the public welfare requiring it.

Rep. Armstrong moved that the Report of the Conference Committee on Senate Bill No. 93 be adopted and made the action of the House.

### **RECOGNITION IN THE WELL**

Comptroller John Morgan was recognized in the Well for remarks on Senate Bill No. 93.

### **MESSAGE CALENDAR, CONTINUED**

Rep. Armstrong moved that Senate Bill No. 93 be reset for the Message Calendar on May 22, 2002, which motion prevailed.

## **UNFINISHED BUSINESS**

### **RESOLUTIONS**

Pursuant to **Rule No. 17**, the following resolution(s) was/were introduced and placed on the Supplemental Consent Calendar No. 2 for May 15, 2002:

**House Resolution No. 309** -- Memorials, Recognition - Vine Middle School Choir. by \*Armstrong, \*Tindell, \*Buttry, \*Dunn, \*Hagood, \*Boyer.

**House Resolution No. 310** -- Naming and Designating - May 15, 2002, National Peace Officers' Memorial Day in Murfreesboro. by \*Hood, \*Rowland, \*Beavers.

**House Resolution No. 311** -- Memorials, Recognition - Rockwood Civitan Club. by \*Ferguson.

**House Resolution No. 312** -- Memorials, Academic Achievement - Matthew William Chandler, Salutatorian, Rockwood High School. by \*Ferguson.

**House Resolution No. 313** -- Memorials, Academic Achievement - Phillip Samuel, Kirkham, Jr., Valedictorian, Rockwood High School. by \*Ferguson.

**\*House Joint Resolution No. 1076** -- General Assembly, Statement of Intent or Position - Urges Congress to adopt legislation requiring Medicare program to cover all oral anti-cancer drugs. by \*Odom.

**House Joint Resolution No. 1080** -- Memorials, Retirement - F.C. Richardson. by \*DeBerry L.

**WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY**

**House Joint Resolution No. 1081** -- Memorials, Academic Achievement - Patricia Rose, Valedictorian, St. Benedict High School. by \*Stanley.

**SENATE JOINT RESOLUTIONS  
(Congratulatory and Memorializing)**

Pursuant to **Rule No. 17**, the resolution(s) listed was/were noted as being placed on the Supplemental Consent Calendar No. 2 for May 15, 2002:

**Senate Joint Resolution No. 750** -- Memorials, Personal Occasion - Joyce Carroll, 75th Birthday. by \*Trail.

**Senate Joint Resolution No. 751** -- Memorials, Recognition - Wilma Dykeman Stokely, State Historian. by \*Haun.

**Senate Joint Resolution No. 752** -- Memorials, Academic Achievement - Ross Edward Philpot, Valedictorian, Jackson County High School. by \*Burks.

**Senate Joint Resolution No. 753** -- Memorials, Academic Achievement - Sandra Jo Wilson, Salutatorian, Jackson County High School. by \*Burks.

**Senate Joint Resolution No. 754** -- Memorials, Academic Achievement - Rachel A. Jernigan, Valedictorian, Monterey High School. by \*Burks.

**Senate Joint Resolution No. 755** -- Memorials, Academic Achievement - Jason Lee Buckner, Salutatorian, Monterey High School. by \*Burks.

**Senate Joint Resolution No. 756** -- Memorials, Academic Achievement - Yamini Rao, Valedictorian, Cookeville High School. by \*Burks.

**Senate Joint Resolution No. 757** -- Memorials, Academic Achievement - Krishna Rao, Salutatorian, Cookeville High School. by \*Blackburn.

**Senate Joint Resolution No. 758** -- Memorials, Academic Achievement - Lora Lynn Palmer, Valedictorian, Upperman High School. by \*Burks.

**Senate Joint Resolution No. 759** -- Memorials, Academic Achievement - Kenneth Richard Herren, Salutatorian, Upperman High School. by \*Burks.

**Senate Joint Resolution No. 760** -- Memorials, Academic Achievement - Nathan Thomas Aaron, Valedictorian, Pickett County High School. by \*Burks.

**Senate Joint Resolution No. 761** -- Memorials, Academic Achievement - John Michael Crouch, Salutatorian, Pickett County High School. by \*Burks.

**Senate Joint Resolution No. 762** -- Memorials, Academic Achievement - Andrea Beth Robertson, Valedictorian, Coffee County Central High School. by \*Blackburn.

**Senate Joint Resolution No. 763** -- Memorials, Academic Achievement - Emily Lynn Powers, Salutatorian, Coffee County Central High School. by \*Burks.

**WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY**

**Senate Joint Resolution No. 764** -- Memorials, Public Service - Burrell Harris. by \*Burks.

**Senate Joint Resolution No. 765** -- Memorials, Interns - John Gregory Burlison. by \*Fowler.

**Senate Joint Resolution No. 766** -- Memorials, Interns - Katie Lanette Williams. by \*Wilder.

**Senate Joint Resolution No. 767** -- Memorials, Academic Achievement - Huan Y. Lin, Valedictorian, Frayser High School. by \*Kyle.

**Senate Joint Resolution No. 768** -- Memorials, Academic Achievement - Takela Jeanette Matthews, Salutatorian, Frayser High School. by \*Kyle.

**Senate Joint Resolution No. 769** -- Memorials, Academic Achievement - Lynzi Sutton, Salutatorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 770** -- Memorials, Academic Achievement - Susan L. Roach, Salutatorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 771** -- Memorials, Academic Achievement - Brittany Morgan Book, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 772** -- Memorials, Academic Achievement - Eleanor Morgan Petty, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 773** -- Memorials, Academic Achievement - Kelly Savannah Sutton, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 774** -- Memorials, Academic Achievement - Angela Ecabrina Quebec Munasque, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 775** -- Memorials, Academic Achievement - AnnMarie Bennett, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 776** -- Memorials, Academic Achievement - Angela Bryant, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 777** -- Memorials, Academic Achievement - Sarah Ellen Morton, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 778** -- Memorials, Academic Achievement - Xiao Xin Lu, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 779** -- Memorials, Academic Achievement - Charlotte Hayes, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 780** -- Memorials, Academic Achievement - Erica McCoy, Valedictorian, Sevier County High School. by \*Clabough.

**WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY**

**Senate Joint Resolution No. 781** -- Memorials, Academic Achievement - Elizabeth Hauser, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 782** -- Memorials, Academic Achievement - William Arin McNabb, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 783** -- Memorials, Academic Achievement - Elizabeth Farren, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 784** -- Memorials, Academic Achievement - Nicholas Lambert, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 785** -- Memorials, Academic Achievement - Laura Jetter, Salutatorian, Alcoa High School. by \*Clabough.

**Senate Joint Resolution No. 786** -- Memorials, Academic Achievement - Jeremiah M. Stache, Valedictorian, Alcoa High School. by \*Clabough.

**Senate Joint Resolution No. 787** -- Memorials, Academic Achievement - Joshua "Logan" Dyer, Valedictorian, Gatlinburg-Pittman High School. by \*Clabough.

**Senate Joint Resolution No. 788** -- Memorials, Academic Achievement - Ana Alicia Landry, Salutatorian, Gatlinburg-Pittman High School. by \*Clabough.

**Senate Joint Resolution No. 789** -- Memorials, Academic Achievement - Trista Suzanne Self, Salutatorian, Gatlinburg-Pittman High School. by \*Clabough.

**Senate Joint Resolution No. 790** -- Memorials, Academic Achievement - Thomas O. McDermott, Salutatorian, Gatlinburg-Pittman High School. by \*Clabough.

**Senate Joint Resolution No. 791** -- Memorials, Academic Achievement - Brett M. Taylor, Salutatorian, Gatlinburg-Pittman High School. by \*Clabough.

**Senate Joint Resolution No. 792** -- Memorials, Academic Achievement - Barton Chandler Williams, Valedictorian, Gatlinburg-Pittman High School. by \*Clabough.

**Senate Joint Resolution No. 793** -- Memorials, Academic Achievement - Amber N. Noel, Valedictorian, Gatlinburg Pittman High School. by \*Clabough.

**Senate Joint Resolution No. 794** -- Memorials, Academic Achievement - Courtney Mason Lix, Salutatorian, Gatlinburg-Pittman High School. by \*Clabough.

**Senate Joint Resolution No. 795** -- Memorials, Academic Achievement - Jessica M. Davis, Salutatorian, Seymour High School. by \*Clabough.

**Senate Joint Resolution No. 796** -- Memorials, Academic Achievement - Kristi Hurst, Valedictorian, Seymour High School. by \*Clabough.

**Senate Joint Resolution No. 797** -- Memorials, Academic Achievement - Cherish Widner, Valedictorian, Seymour High School. by \*Clabough.

## **WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY**

**Senate Joint Resolution No. 798** -- Memorials, Academic Achievement - Katherine Sue Hayes, Valedictorian, William Blount High School. by \*Clabough.

**Senate Joint Resolution No. 799** -- Memorials, Academic Achievement - Brandi Marie Stargel, Salutatorian, William Blount High School. by \*Clabough.

**Senate Joint Resolution No. 800** -- Memorials, Academic Achievement - Philip Trent Jones, Valedictorian, Maryville High School. by \*Clabough.

**Senate Joint Resolution No. 801** -- Memorials, Academic Achievement - Alan Barker, Valedictorian, Heritage High School. by \*Clabough.

**Senate Joint Resolution No. 802** -- Memorials, Academic Achievement - Steven Woolwine, Salutatorian, Heritage High School. by \*Clabough.

**Senate Joint Resolution No. 803** -- Memorials, Academic Achievement - Kara Lynn Farris, Co-Valedictorian, White County High School. by \*Clabough.

**Senate Joint Resolution No. 804** -- Memorials, Academic Achievement - Anna Elizabeth Vaughn, Co-Valedictorian, White County High School. by \*Burks.

**Senate Joint Resolution No. 805** -- Memorials, Recognition - Connie Barker. by \*Graves.

**Senate Joint Resolution No. 806** -- Memorials, Academic Achievement - Sabrina E. Doughy, Salutatorian, Maryville High School. by \*Clabough.

**Senate Joint Resolution No. 807** -- Memorials, Retirement - Betty Pippin Knight. by \*Henry.

## **SUPPLEMENTAL CONSENT CALENDAR NO. 2**

**House Resolution No. 309** -- Memorials, Recognition - Vine Middle School Choir. by \*Armstrong, \*Tindell, \*Buttry, \*Dunn, \*Hagood, \*Boyer.

**House Resolution No. 310** -- Naming and Designating - May 15, 2002, National Peace Officers' Memorial Day in Murfreesboro. by \*Hood, \*Rowland, \*Beavers.

**House Resolution No. 311** -- Memorials, Recognition - Rockwood Civitan Club. by \*Ferguson.

**House Resolution No. 312** -- Memorials, Academic Achievement - Matthew William Chandler, Salutatorian, Rockwood High School. by \*Ferguson.

**House Resolution No. 313** -- Memorials, Academic Achievement - Phillip Samuel, Kirkham, Jr., Valedictorian, Rockwood High School. by \*Ferguson.

**\*House Joint Resolution No. 1076** -- General Assembly, Statement of Intent or Position - Urges Congress to adopt legislation requiring Medicare program to cover all oral anti-cancer drugs. by \*Odom.

**WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY**

**House Joint Resolution No. 1080** -- Memorials, Retirement - F.C. Richardson. by \*DeBerry L.

**House Joint Resolution No. 1081** -- Memorials, Academic Achievement - Patricia Rose, Valedictorian, St. Benedict High School. by \*Stanley.

**Senate Joint Resolution No. 750** -- Memorials, Personal Occasion - Joyce Carroll, 75th Birthday. by \*Trail.

**Senate Joint Resolution No. 751** -- Memorials, Recognition - Wilma Dykeman Stokely, State Historian. by \*Haun.

**Senate Joint Resolution No. 752** -- Memorials, Academic Achievement - Ross Edward Philpot, Valedictorian, Jackson County High School. by \*Burks.

**Senate Joint Resolution No. 753** -- Memorials, Academic Achievement - Sandra Jo Wilson, Salutatorian, Jackson County High School. by \*Burks.

**Senate Joint Resolution No. 754** -- Memorials, Academic Achievement - Rachel A. Jernigan, Valedictorian, Monterey High School. by \*Burks.

**Senate Joint Resolution No. 755** -- Memorials, Academic Achievement - Jason Lee Buckner, Salutatorian, Monterey High School. by \*Burks.

**Senate Joint Resolution No. 756** -- Memorials, Academic Achievement - Yamini Rao, Valedictorian, Cookeville High School. by \*Burks.

**Senate Joint Resolution No. 757** -- Memorials, Academic Achievement - Krishna Rao, Salutatorian, Cookeville High School. by \*Blackburn.

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**Senate Joint Resolution No. 760** -- Memorials, Academic Achievement - Nathan Thomas Aaron, Valedictorian, Pickett County High School. by \*Burks.

**Senate Joint Resolution No. 761** -- Memorials, Academic Achievement - John Michael Crouch, Salutatorian, Pickett County High School. by \*Burks.

**Senate Joint Resolution No. 762** -- Memorials, Academic Achievement - Andrea Beth Robertson, Valedictorian, Coffee County Central High School. by \*Blackburn.

**Senate Joint Resolution No. 763** -- Memorials, Academic Achievement - Emily Lynn Powers, Salutatorian, Coffee County Central High School. by \*Burks.

**Senate Joint Resolution No. 764** -- Memorials, Public Service - Burrell Harris. by \*Burks.



**WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY**

**Senate Joint Resolution No. 765** -- Memorials, Interns - John Gregory Burlison. by \*Fowler.

**Senate Joint Resolution No. 766** -- Memorials, Interns - Katie Lanette Williams. by \*Wilder.

**Senate Joint Resolution No. 767** -- Memorials, Academic Achievement - Huan Y. Lin, Valedictorian, Frayser High School. by \*Kyle.

**Senate Joint Resolution No. 768** -- Memorials, Academic Achievement - Takela Jeanette Matthews, Salutatorian, Frayser High School. by \*Kyle.

**Senate Joint Resolution No. 769** -- Memorials, Academic Achievement - Lynzi Sutton, Salutatorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 770** -- Memorials, Academic Achievement - Susan L. Roach, Salutatorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 771** -- Memorials, Academic Achievement - Brittany Morgan Book, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 772** -- Memorials, Academic Achievement - Eleanor Morgan Petty, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 773** -- Memorials, Academic Achievement - Kelly Savannah Sutton, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 774** -- Memorials, Academic Achievement - Angela Ecatrina Quebec Munasque, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 775** -- Memorials, Academic Achievement - AnnMarie Bennett, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 776** -- Memorials, Academic Achievement - Angela Bryant, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 777** -- Memorials, Academic Achievement - Sarah Ellen Morton, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 778** -- Memorials, Academic Achievement - Xiao Xin Lu, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 779** -- Memorials, Academic Achievement - Charlotte Hayes, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 780** -- Memorials, Academic Achievement - Erica McCoy, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 781** -- Memorials, Academic Achievement - Elizabeth Hauser, Valedictorian, Sevier County High School. by \*Clabough.

**WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY**

**Senate Joint Resolution No. 782** -- Memorials, Academic Achievement - William Arin McNabb, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 783** -- Memorials, Academic Achievement - Elizabeth Farren, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 784** -- Memorials, Academic Achievement - Nicholas Lambert, Valedictorian, Sevier County High School. by \*Clabough.

**Senate Joint Resolution No. 785** -- Memorials, Academic Achievement - Laura Jetter, Salutatorian, Alcoa High School. by \*Clabough.

**Senate Joint Resolution No. 786** -- Memorials, Academic Achievement - Jeremiah M. Stache, Valedictorian, Alcoa High School. by \*Clabough.

**Senate Joint Resolution No. 787** -- Memorials, Academic Achievement - Joshua "Logan" Dyer, Valedictorian, Gatlinburg-Pittman High School. by \*Clabough.

**Senate Joint Resolution No. 788** -- Memorials, Academic Achievement - Ana Alicia Landry, Salutatorian, Gatlinburg-Pittman High School. by \*Clabough.

**Senate Joint Resolution No. 789** -- Memorials, Academic Achievement - Trista Suzanne Self, Salutatorian, Gatlinburg-Pittman High School. by \*Clabough.

**Senate Joint Resolution No. 790** -- Memorials, Academic Achievement - Thomas O. McDermott, Salutatorian, Gatlinburg-Pittman High School. by \*Clabough.

**Senate Joint Resolution No. 791** -- Memorials, Academic Achievement - Brett M. Taylor, Salutatorian, Gatlinburg-Pittman High School. by \*Clabough.

**Senate Joint Resolution No. 792** -- Memorials, Academic Achievement - Barton Chandler Williams, Valedictorian, Gatlinburg-Pittman High School. by \*Clabough.

**Senate Joint Resolution No. 793** -- Memorials, Academic Achievement - Amber N. Noel, Valedictorian, Gatlinburg Pittman High School. by \*Clabough.

**Senate Joint Resolution No. 794** -- Memorials, Academic Achievement - Courtney Mason Lix, Salutatorian, Gatlinburg-Pittman High School. by \*Clabough.

**Senate Joint Resolution No. 795** -- Memorials, Academic Achievement - Jessica M. Davis, Salutatorian, Seymour High School. by \*Clabough.

**Senate Joint Resolution No. 796** -- Memorials, Academic Achievement - Kristi Hurst, Valedictorian, Seymour High School. by \*Clabough.

**Senate Joint Resolution No. 797** -- Memorials, Academic Achievement - Cherish Widner, Valedictorian, Seymour High School. by \*Clabough.

**Senate Joint Resolution No. 798** -- Memorials, Academic Achievement - Katherine Sue Hayes, Valedictorian, William Blount High School. by \*Clabough.

**WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY**

**Senate Joint Resolution No. 799** -- Memorials, Academic Achievement - Brandi Marie Stargel, Salutatorian, William Blount High School. by \*Clabough.

**Senate Joint Resolution No. 800** -- Memorials, Academic Achievement - Philip Trent Jones, Valedictorian, Maryville High School. by \*Clabough.

**Senate Joint Resolution No. 801** -- Memorials, Academic Achievement - Alan Barker, Valedictorian, Heritage High School. by \*Clabough.

**Senate Joint Resolution No. 802** -- Memorials, Academic Achievement - Steven Woolwine, Salutatorian, Heritage High School. by \*Clabough.

**Senate Joint Resolution No. 803** -- Memorials, Academic Achievement - Kara Lynn Farris, Co-Valedictorian, White County High School. by \*Clabough.

**Senate Joint Resolution No. 804** -- Memorials, Academic Achievement - Anna Elizabeth Vaughn, Co-Valedictorian, White County High School. by \*Burks.

**Senate Joint Resolution No. 805** -- Memorials, Recognition - Connie Barker. by \*Graves.

**Senate Joint Resolution No. 806** -- Memorials, Academic Achievement - Sabrina E. Doughty, Salutatorian, Maryville High School. by \*Clabough.

**Senate Joint Resolution No. 807** -- Memorials, Retirement - Betty Pippin Knight. by \*Henry.

Rep. L. DeBerry moved that all members voting aye on House Joint Resolution No. 1080 be added as sponsors, which motion prevailed.

Pursuant to **Rule No. 50**, Rep. Miller moved that all House Bills having companion Senate Bills and are on the Clerk's desk be conformed and substituted for the appropriate House Bill, all Senate and House Bills on the Supplemental Consent Calendar No. 2 be passed on third and final consideration, all House Resolutions and House Joint Resolutions be adopted, and all Senate Joint Resolutions on the Supplemental Consent Calendar No. 2 be concurred in, which motion prevailed by the following vote:

Ayes .....	98
Noes .....	0

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 98.

## WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY

A motion to reconsider was tabled.

### RECOGNITION IN THE WELL

Reps. Davidson and McDaniel were recognized in the Well.

### RULES SUSPENDED

Rep. Davidson moved that the rules be suspended for the purpose of introducing House Joint Resolution No. 1092 out of order, which motion prevailed.

**House Joint Resolution No. 1092** -- General Assembly, Recess & Reconvene - Recesses general assembly from close of business on Wednesday, May 15, 2002, house to reconvene Wednesday, May 22, 2002, at 10:00 a.m. (CDT) and senate to reconvene Wednesday, May 22, 2002, at 1:00 p.m. (CDT). by \*Davidson, \*McDaniel.

On motion, the rules were suspended for the immediate consideration of the resolution.

On motion of Rep. Davidson, and seconded by Rep. McDaniel, the resolution was adopted.

A motion to reconsider was tabled.

### RESOLUTIONS

Pursuant to **Rule No. 17**, the following resolution(s) was/were introduced and placed on the Supplemental Consent Calendar No. 3 for May 15, 2002:

**House Joint Resolution No. 1082** -- Memorials, Academic Achievement - Stephanie Renee Gardner, Valedictorian, Santa Fe High School. by \*Sands.

**House Joint Resolution No. 1083** -- Memorials, Academic Achievement - Kelly Rae Warf, Valedictorian, Spring Hill High School. by \*Sands.

**House Joint Resolution No. 1084** -- Memorials, Academic Achievement - Jessica Lee Kruckeberg, Co-Valedictorian, Zion Christian Academy. by \*Sands.

**House Joint Resolution No. 1085** -- Memorials, Academic Achievement - Gavin Butler Pinkston, Valedictorian, Columbia Academy. by \*Sands.

**House Joint Resolution No. 1086** -- Memorials, Academic Achievement - Nathan Rowe Alderson, Valedictorian, Columbia Central High School. by \*Sands.

**House Joint Resolution No. 1087** -- Memorials, Academic Achievement - David Michael Hudgins, Valedictorian, Hampshire Unit School. by \*Sands.

**House Joint Resolution No. 1088** -- Memorials, Academic Achievement - Megan Elizabeth Malone, Co-Valedictorian, Zion Christian Academy. by \*Sands.

**WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY**

**House Joint Resolution No. 1089** -- Memorials, Academic Achievement - Katherine Ann Eimicke, Valedictorian, Mount Pleasant High School. by \*Sands.

**House Joint Resolution No. 1090** -- Memorials, Academic Achievement - Sarah Elizabeth Hayes, Valedictorian, Culleoka Unit School. by \*Sands.

**SUPPLEMENTAL CONSENT CALENDAR NO. 3**

**House Joint Resolution No. 1082** -- Memorials, Academic Achievement - Stephanie Renee Gardner, Valedictorian, Santa Fe High School. by \*Sands.

**House Joint Resolution No. 1083** -- Memorials, Academic Achievement - Kelly Rae Warf, Valedictorian, Spring Hill High School. by \*Sands.

**House Joint Resolution No. 1084** -- Memorials, Academic Achievement - Jessica Lee Kruckeberg, Co-Valedictorian, Zion Christian Academy. by \*Sands.

**House Joint Resolution No. 1085** -- Memorials, Academic Achievement - Gavin Butler Pinkston, Valedictorian, Columbia Academy. by \*Sands.

**House Joint Resolution No. 1086** -- Memorials, Academic Achievement - Nathan Rowe Alderson, Valedictorian, Columbia Central High School. by \*Sands.

**House Joint Resolution No. 1087** -- Memorials, Academic Achievement - David Michael Hudgins, Valedictorian, Hampshire Unit School. by \*Sands.

**House Joint Resolution No. 1088** -- Memorials, Academic Achievement - Megan Elizabeth Malone, Co-Valedictorian, Zion Christian Academy. by \*Sands.

**House Joint Resolution No. 1089** -- Memorials, Academic Achievement - Katherine Ann Eimicke, Valedictorian, Mount Pleasant High School. by \*Sands.

**House Joint Resolution No. 1090** -- Memorials, Academic Achievement - Sarah Elizabeth Hayes, Valedictorian, Culleoka Unit School. by \*Sands.

Rep. White moved that Supplemental Consent Calendar No. 3 be reset for the Regular Calendar on May 22, 2002, which motion failed.

**SUPPLEMENTAL CONSENT CALENDAR NO. 3, CONTINUED**

Pursuant to **Rule No. 50**, Rep. Miller moved that all House Bills having companion Senate Bills and are on the Clerk's desk be conformed and substituted for the appropriate House Bill, all Senate and House Bills on the Supplemental Consent Calendar No. 3 be passed on third and final consideration, all House Resolutions and House Joint Resolutions be adopted, and all Senate Joint Resolutions on the Supplemental Consent Calendar No. 3 be concurred in, which motion prevailed by the following vote:

Ayes .....97  
Noes .....0

## WEDNESDAY, MAY 15, 2002 – EIGHTY-SEVENTH LEGISLATIVE DAY

Representatives voting aye were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Cooper, Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 97.

A motion to reconsider was tabled.

### SPONSORS ADDED

Under **Rule No. 43**, the following members were permitted to add their names as sponsors as indicated below, the prime sponsor of each having agreed to such addition:

**House Bill No. 999:** Rep(s). Harwell as prime sponsor(s).

**House Bill No. 1139:** Rep(s). Buck as prime sponsor(s).

**House Bill No. 1520:** Rep(s). Harwell as prime sponsor(s).

**House Bill No. 1617:** Rep(s). Bone, White and Turner (Shelby) as prime sponsor(s).

**House Bill No. 1790:** Rep(s). Harwell as prime sponsor(s).

**House Bill No. 1791:** Rep(s). Harwell as prime sponsor(s).

**House Bill No. 2957:** Rep(s). Head, Whitson, Naifeh, L. DeBerry, Rinks, Briley and Givens as prime sponsor(s).

### SPONSORS REMOVED

On motion, Rep(s). Boyer, Davis (Cocke), Sharp, Patton, Hood, Fraley, McDonald, Winningham, McCord, McKee and Buck was/were removed as sponsor(s) of **House Bill No. 2957**.

### ENGROSSED BILLS

**May 15, 2002**

The following bill(s) have been examined, engrossed, and are ready for transmission to the Senate: House Bill(s) No(s). 2750.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**MESSAGE FROM THE SENATE**

**May 15, 2002**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 3256, 3270 and 3272; substituted for Senate Bill(s) on the same subject(s) and passed by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

**MESSAGE FROM THE SENATE**

**May 15, 2002**

MR. SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 683, 704 and 723; all concurred in by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

**MESSAGE FROM THE SENATE**

**May 15, 2002**

MR. SPEAKER: I am directed to return to the House, House Bill No. 1201.

The Senate lifted the tabling motion, reconsidered passage of the bill, reconsidered adoption of Amendment No. 1, withdrew Amendment No. 1, then repassed the bill on third and final consideration.

RUSSELL A. HUMPHREY, Chief Clerk.

**ENGROSSED BILLS**

**May 15, 2002**

The following bill(s) have been examined, engrossed, and are ready for transmission to the Senate: House Joint Resolution(s) No(s). 830.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**ENGROSSED BILLS**

**May 15, 2002**

The following bill(s) have been examined, engrossed, and are ready for transmission to the Senate: House Joint Resolution(s) No(s). 1079.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**ENGROSSED BILLS**

**May 15, 2002**

The following bill(s) have been examined, engrossed, and are ready for transmission to the Senate: House Bill(s) No(s). 3252.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**ENGROSSED BILLS**

**May 15, 2002**

The following bills have been examined, engrossed, and are ready for transmission to the Senate: House Bill(s) No(s). 2546, 2316, 3269, 3273, 3274, 3275, 3276, 3279, 3280, also, House Joint Resolution(s) No(s). 659, 672, 789, 836, 862 and 1038.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**MESSAGE FROM THE SENATE**

**May 15, 2002**

MR. SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 830; concurred in by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

**ENGROSSED BILLS**

**May 15, 2002**

The following bills have been examined, engrossed, and are ready for transmission to the Senate: House Bill(s) No(s). 3043, also, House Joint Resolution(s) No(s). 746.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**MESSAGE FROM THE SENATE**

**May 15, 2002**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 2693; substituted for Senate Bill(s) on the same subject(s), amended and passed by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

**ENGROSSED BILLS**

**May 15, 2002**

The following bill(s) have been examined, engrossed, and are ready for transmission to the Senate: House Joint Resolution(s) No(s). 1039, 1040, 1042, 1043, 1044, 1045, 1046, 1047, 1048, 1049, 1050, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, 1059, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1077 and 1078.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**MESSAGE FROM THE SENATE**

**May 15, 2002**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 2892 and 3265; substituted for Senate Bill(s) on the same subject(s) and passed by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.



**MESSAGE FROM THE SENATE**

**May 15, 2002**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 2476; substituted for Senate Bill(s) on the same subject(s), amended and passed by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

**ENGROSSED BILLS**

**May 15, 2002**

The following bill(s) have been examined, engrossed, and are ready for transmission to the Senate: House Joint Resolution(s) No(s). 1092.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**MESSAGE FROM THE SENATE**

**May 15, 2002**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 2258; substituted for Senate Bill(s) on the same subject(s), amended and passed by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

**MESSAGE FROM THE SENATE**

**May 15, 2002**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 2623; substituted for Senate Bill(s) on the same subject(s), amended and passed by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

**MESSAGE FROM THE SENATE**

**May 15, 2002**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 1434; substituted for Senate Bill(s) on the same subject(s), amended and passed by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

**MESSAGE FROM THE SENATE**

**May 15, 2002**

MR. SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 1048 and 1079; concurred in by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

**MESSAGE FROM THE SENATE**

**May 15, 2002**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 2984; substituted for Senate Bill(s) on the same subject(s), amended and passed by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

**ENGROSSED BILLS**

**May 15, 2002**

The following bill(s) have been examined, engrossed, and are ready for transmission to the Senate: House Joint Resolution(s) No(s). 1076, 1080, 1081, 1082, 1083, 1084, 1085, 1086, 1087, 1088, 1089 and 1090.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**MESSAGE FROM THE SENATE**

**May 15, 2002**

MR. SPEAKER: I am directed to return to the House, Senate Bill(s) No(s). 2596.

The Senate refused to recede from its action in nonconcurring in House Amendment(s) No(s). 1.

The Speaker appointed a Conference Committee composed of Senators Burks, Williams and Davis to confer with a like Committee from the House to resolve the differences of the two bodies on Senate Bill No. 2596.

RUSSELL A. HUMPHREY, Chief Clerk.

**ENGROSSED BILLS**

**May 15, 2002**

The following bills have been examined, engrossed, and are ready for transmission to the Senate: House Bill(s) No(s). 1106, 1416, 2510, 2939, 3148, also, House Joint Resolution(s) No(s). 770.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**MESSAGE FROM THE SENATE**

**May 15, 2002**

MR. SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 1092; concurred in by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

**MESSAGE FROM THE SENATE**

**May 15, 2002**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 3138; substituted for Senate Bill(s) on the same subject(s) and passed by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

**MESSAGE FROM THE SENATE**

**May 15, 2002**

MR. SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 1078; concurred in by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

**ENROLLED BILLS**

**May 15, 2002**

The following bill(s) have been compared, enrolled, and are ready for the signature(s) of the Speaker(s): House Joint Resolution(s) No(s). 1079.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**SIGNED**

**May 15, 2002**

The Speaker signed the following: House Joint Resolution(s) No(s). 1079.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

**MESSAGE FROM THE SENATE**

**May 15, 2002**

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 2716 and 2737; substituted for Senate Bill(s) on the same subject(s) and passed by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

**MESSAGE FROM THE SENATE**

**May 15, 2002**

MR. SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 726, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 961, 962, 963, 964, 965, 966, 967, 968, 969, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035 and 1036; all concurred in by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

**MESSAGE FROM THE SENATE**

**May 15, 2002**

MR. SPEAKER: I am directed to transmit to the House, Senate Bill(s) No(s). 898, 1303, 2476, 2583, 2764 and 2899; all passed by the Senate.

RUSSELL A. HUMPHREY, Chief Clerk.

**\*Senate Bill No. 898** -- Education, Higher - Reclassifies "individual" as "person" under Tennessee Baccalaureate Education System Trust (BEST) Act as one that purchases tuition units or makes contributions to account. Amends TCA Title 49, Chapter 7, Part 8. by \*Haynes. (HB1318 by \*Davidson)

**\*Senate Bill No. 1303** -- Motor Vehicles, Titling and Registration - Authorizes issuance of I Love TDOT cultural license plates. Amends TCA Title 54 and Title 55. by \*Haun, \*Herron, \*Cohen. (HB1893 by \*Head)

**Senate Bill No. 2476** -- Water - Prohibits lowering of lakes 30 feet of full pool except in state or national declared disaster or emergency. Amends TCA Title 7; Title 40 and Title 69. by \*Haun, \*Williams, Sen.. (\*HB2405 by \*Davis (Cocke))

**\*Senate Bill No. 2583** -- Election Laws - Enacts "Tennessee Provisional Voting Rights Act of 2002." Amends TCA Section 2-7-112. by \*Burks. (HB2831 by \*Briley, \*Jones, S.)

**\*Senate Bill No. 2764** -- Motor Vehicles, Titling and Registration - Specifies that payment of fee equal to cost of actually designing and manufacturing military cultural plates only applicable upon initial issuance or reissuance of plates, and not applicable at renewal. Amends TCA Title 55, Chapter 4, Part 2. by \*Trail. (HB2615 by \*Rowland)

**Senate Bill No. 2899** -- Motor Vehicles - Requires motor vehicles carrying more than 15 passengers for hire less than two miles to major public scheduled events to have \$1,000,000 in liability insurance. Amends TCA Title 65, Chapter 15, Part 1. by \*Haun. (\*HB2816 by \*Whitson)

**CONSENT CALENDAR**

**May 15, 2002**

The following local bills have been placed on the Consent Calendar for **May 22, 2002**:  
House Bill(s) No(s). 3282, 3283 and 2347.

**ROLL CALL**

The roll call was taken with the following results:

Present .....97

Representatives present were: Armstrong, Arriola, Baird, Beavers, Bittle, Black, Bone, Bowers, Boyer, Briley, Brooks, Brown, Buck, Bunch, Buttry, Caldwell, Casada, Chumney, Clem, Cole (Carter), Cole (Dyer), Curtiss, Davidson, Davis (Washington), Davis (Cocke), DeBerry J, DeBerry L, Dunn, Ferguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Hagood, Hargett, Hargrove, Harwell, Head, Hood, Johnson, Jones U, Kent, Kernell, Kisber, Langster, Lewis, Maddox, McCord, McDaniel, McDonald, McKee, McMillan, Miller, Montgomery, Mumpower, Newton, Odom, Overbey, Patton, Phelan, Phillips, Pinion, Pleasant, Pruitt, Rhinehart, Ridgeway, Rinks, Roach, Rowland, Sands, Sargent, Scroggs, Sharp, Shaw, Shepard, Stanley, Tidwell, Tindell, Todd, Towns, Turner (Hamilton), Turner (Shelby), Turner (Davidson), Vincent, Walker, West, Westmoreland, White, Whitson, Windle, Winningham, Wood, Mr. Speaker Naifeh -- 97.

**RECESS MOTION**

On motion of Rep. Davidson, and pursuant to House Joint Resolution No. 1092, the House stood in recess until 10:00 a.m. on Wednesday, May 22, 2002.